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APPENDIX A

DECLARATION OF NEIL K. VIRANI IN SUPPORT OF
DEFENDANTS VUSD AND CASTRO'S OPPOSITION TO
MOTION FOR TEMPORARY RESTRAINING ORDER; CASE
NO. 2:25-CV-04659-AB-JC; FILED 05/28/2025; DKT 17-1

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JANE DOE, on her own behalf and
on behalf of Child 1; WE THE
PATRIOTS USA, INC.,

Plaintiffs,

vs.

VENTURA UNIFIED SCHOOL
DISTRICT; ANTONIO CASTRO, in
his official capacity only; ERIK
NASARENKO, in his official capacity
only; SARA BRUCKER, in her official
capacity only; TONY THURMOND, in
his official capacity only; ERICA PAN,
in her official capacity only,

Defendants.

2:25-cv-04659-AB-JC

**DECLARATION OF NEIL K. VIRANI
IN SUPPORT OF DEFENDANTS
VUSD AND CASTRO'S OPPOSITION
TO MOTION FOR TEMPORARY
RESTRAINING ORDER**

I, NEIL K. VIRANI, DECLARE AS FOLLOWS

1. The matters set forth in this Declaration are of my own personal knowledge, except as to the matters which were compiled from available documents, and, as to those matters, I am informed and believe that they are true. If called upon to do so, I could and would competently testify as follows:
2. I am currently employed, and at all times relevant to this litigation was employed, as the Executive Director, Special Education & Pupil Personnel Services for the Ventura Unified School district (VUSD).
3. The California Health and Safety Code and implementing regulations set forth various diseases for which children must be immunized and the time frames by which those immunizations must occur. (Health & Saf. Code, §§ 120325-120380; 17 Cal. Code Regs., § 6000 et. seq.) Health and Safety Code section 120335(b) prohibits school districts from unconditionally admitting students to school who are not fully immunized against those diseases unless a specific exemption applies. Students in a home-based private school or an independent study program who do not receive classroom-based instruction are not subject to immunization requirements.
4. All California schools and childcare facilities, whether public or private, are required to report to the California Department of Public Health and the local health department each year the immunization status of all pupils, without exceptions, admitted at specified ages or grade levels. California Health and Safety Code Section 120375 and 17 CCR § 6075
5. The party identified in Plaintiffs' Complaint as CHILD 1 was a high school student attending VUSD (Foothill Technology High School) in person when VUSD determined in November 2024 that he had not met the California School Immunization requirements under California law.

1 6. On December 12, 2024, VUSD requested that parents of CHILD 1 provide all
2 required documentation to allow his education to progress uninterrupted,
3 including:

- 4 · A valid record from his health provider listing each of the required
5 immunizations your child has received.
- 6 · A medical exemption for immunizations through the California
7 Immunization Registry (CAIR-ME) issued by a physician (MD or DO)
8 licensed in California.

9 7. Ultimately, the parents of CHILD 1 were notified that VUSD would be
10 required by law to exclude CHILD 1 from school instruction should VUSD
11 not receive all the requested records by January 7, 2025.

12 8. Thereafter, the parents of CHILD 1 provided immunization documentation to
13 VUSD. See Exhibit 1.

14 9. VUSD reached out to Ventura County Public Health (VCPH) and the
15 California Department of Public Health (CDPH) Immunization Branch for
16 guidance on the immunization records submitted by the parents of CHILD 1
17 because it appeared that Homeoprophylaxis type vaccines had been provided to
18 CHILD 1. There were also several questionable entries such as the vaccines
19 administered and the "batch/lot numbers." Other than older entries by a Dr.
20 Hiltner, the newer entries were also missing information such as a legible
21 doctor's name, license #, or clinic contact information.

22 10. On January 7, 2025, the parents of CHILD 1 were notified that CDPH had
23 indicated that "homeoprophylaxis vaccines do not meet the school
24 immunization requirements and that the WHO record is questionable for many
25 reasons," and that VCPH indicated that "Dr. Hiltner has a long history of non-
26 compliance with California State requirements," and that it was "concerned as
27 several of the vaccines have unusual lot numbers." VCPH requested that
28

VUSD get "additional validation/confirmation from parent/healthcare provider" to accept the records.

11. California Code of Regulations, Title 17, section 6000 (m) provides that only immunizations recommended by the federal Advisory Committee on Immunization Practices meet attendance requirements. Nosodes, homeoprophylaxis vaccines, or homeopathic vaccines do not meet the immunization requirements.

12. VUSD requested from the parents of CHILD 1 the following additional information deemed crucial for verification: the medical provider's contact information, license number, and vaccine batch/lot information.

13. On January 7, 2025, CHILD 1 was excluded from school.

14. On or about February 3, 2025, the parents of CHILD 1 sought a religious exemption from the immunization requirements. That exemption, however, was done away with a few years ago by the California legislature.

15. On March 7, 2025, the parents of CHILD 1 provided VUSD with a letter and a document entitled "Healthcare Provider's Declaration of ADA Disability and Request for Permanent Vaccination Waiver" from a Texas organization that was signed by physicians with apparent medical licenses in Texas, Florida, Missouri and Alabama.

16. Children in California for whom a "licensed physician" states that the child's physical condition is such, or medical circumstances related to the child are such, that immunization is not considered safe may be granted a "medical exemption." (Health & Saf. Code, § 120370(a).) Beginning January 1, 2021, all new medical exemptions must be issued through the California Immunization Registry ("CAIR"). Medical exemptions can only be issued by medical doctors (M.D.) or doctors of osteopathy (D.O.) licensed in California. (See Health & Saf. Code, § 120372(a)(2)(A).) Medical exemptions must meet applicable Centers for Disease Control and Prevention,

1 17.VUSD could not grant the medical exemption requested by the parents of
2 CHILD 1 because such an exemption needs to be issued through the CAIR
3 state registry and because the sought after exemption was not supported by
4 medical doctors or doctors of osteopathy licensed in California, as required by
5 Health & Saf. Code, § 120372(a)(2)(A).

6 18.VUSD is mandated to ensure compliance with the state-mandated
7 immunizations to protect the health and safety of its students and its entire
8 school community. Based solely on the requirements of the California Health
9 and Safety Code, as well as guidance by the Ventura County Public Health
10 and the California Department of Public Health, VUSD determined that it
11 could not allow CHILD 1 to attend school without valid proof of the required
12 immunizations or a valid exemption. To this day neither has been provided to
13 VUSD by the parents of CHILD 1. As a result, CHILD 1 still has not been
14 readmitted to his high school.

15 19.Child 1's academic performance has resulted in failing grades this semester
16 due primarily to the fact that he has not been attending school.

17 20.The School Attendance Review Board ("SARB") process is initiated when a
18 student exhibits persistent attendance issues, such as chronic absenteeism or
19 truancy, despite prior school interventions. This process includes the issuance
20 of truancy notification letters and a meeting with the student and their parents
21 or guardians prior to the formal SARB Review meeting. The primary goal of
22 SARB is to identify the underlying causes of poor attendance and to
23 collaboratively develop a plan of support and intervention that promotes
24 consistent school attendance and academic success.

25 21.At no point during the SARB process involving CHILD A and his parents did
26 they state an interest in homeschooling their son. They were adamant that he
27 should be reinstated to Foothill Technology High School, and be able to
28

1 attend school in person, even though they could not present the required
2 immunization documents.

3 22.Plaintiff's new counsel's characterization of what happened during the first
4 SARB meeting is incorrect. CHILD 1's parents were "not summoned" to a
5 mandatory "School Attendance Review Board" (SARB) meeting on March
6 12, 2025 "under the pretenses" of having a discussion with two VUSD
7 officials on how to move forward. In addition, VSUD did not "surprise[]" Jane
8 Doe and her husband with nine officials, including a county prosecutor."
9 Finally, Defendant Brucker did not "threaten[]" Jane Doe and her husband with
10 criminal prosecution for 'not cooperating' by sending their son to school with
11 the required immunizations."

12 23.Plaintiff's previous counsel's recollection of that SARB meeting, which he
13 discussed in Plaintiff's First Amended Complaint, attached as Exhibit "A,"
14 paints a more accurate picture of what happened:

15
16 49. On that same date MC1-Mother received a notice of a "SARB Meeting"
17 from the VUSD informing her that she was required to attend a meeting of the
18 VUSD's School Attendance Review Board on March 12, 2025 to discuss MC1's
19 "habitual truancy."

20 50. That letter went on to inform her that:

21 Without your cooperation the only other alternative will be to refer this matter
22 to the District Attorney's Office for prosecution pursuant to CA Penal Codes
23 §270.1(a) and/or §272(a)(1), Education Code Section 48293 and/or Education
24 Code Section 48454.

25 51. That letter also included a boxed warning stating that:

26 CALIFORNIA COMPULSORY EDUCATION CODE §48200

27 Each person between the ages of 6 and 18 years not exempted under the
28 provisions of this chapter or Chapter 3 (commencing with Section 48400) –
subject to compulsory full-time education. Each person subject to compulsory
full-time education and each person subject to compulsory continuing education

1 not exempted under the provisions of Chapter 3 (commencing with Section
2 48400) shall attend the public full-time day school of continuation school or
3 classes and for the full time designated as the length of the school day by the
4 governing board of the school district in which the residency of either the parent
5 or legal guardian is located and each parent, guardian, or other person having
6 control or charge of the pupil shall send the pupil to the public full-time day
7 school or continuation school or classes and for the full time designated as the
8 length of the school day by the governing board of the school district in which
9 the residence of either the parent or legal...

10 52. On March 10, 2025, MC1, his mother, his father, and a family friend, M.H.,
11 presented themselves to principal Johnson at the administrative offices of
12 MC1's high school and MC1-Mother informed principal Johnson that her son
13 was there to attend school that day.

14 53. However, MC1 was refused admission to school that day by principal
15 Johnson, ostensibly because he had not met the school's immunization policies.

16 54. During that meeting with principal Johnson, MC1-Mother informed
17 principal Johnson that her attorney wished to speak with the legal counsel for
18 the VUSD regarding the attendance issue and gave principal Johnson the
19 contact information for her attorney.

20 55. An email from Mr. Virani to MC1-Mother later that day informed her that
21 the school would review the materials that she had provided to the school that
22 morning but that MC1 would continue to be excluded until that review was
23 complete.

24 56. On March 11, 2025 the undersigned plaintiffs' counsel sent an email to
25 counsel for the VUSD, Anthony Ramos, informing him that: (1) MC1 and
26 MC1-Mother were represented by counsel and (2) that, since both were
27 members of the Free Now Foundation, the interests of both would be
28 represented in a federal court case involving mandatory school immunizations
in the Eastern District of California by the Free Now Foundation in a case
wherein the lead defendant was Tomas Aragon, head of the California
Department of Public Health, represented by the Attorney General's office, case
number 2:24-cv-03523-DJC-SCR.

57. Plaintiff's counsel then suggested that MC1 be allowed to continue to attend
his school during the period required to get a ruling on a preliminary injunction

1 in that federal case that would allow MC1 to continue to attend his school
2 during the pendency of that litigation.

3 58. Plaintiff's counsel also noted to counsel Ramos the disciplinary hearing set
4 for the next day and asked that it be held in abeyance pending a ruling on
5 plaintiff's forthcoming Motion for Preliminary Injunction in that federal case so
6 as to allow MC1 to continue in school during that federal proceeding.

7 59. Plaintiff's counsel also noted that counsel for the office of the District
8 Attorney for Ventura County was on the list of attendees for the SARB meeting
9 the next day and asked counsel Ramos to forward plaintiff's counsel's requests
10 to her as well.

11 ***

12 62. The SARB meeting went ahead on the afternoon of March 12, 2025. About
13 a dozen persons were in attendance for VUSD. Among them was an attorney
14 from the Ventura County District Attorney's office and two truancy officers.
15 MC1-Mother, MC 1-Father, and a family friend, M.H. were present.

16 63. The head of the SARB informed MC1-Mother and MC1-Father of the
17 charges of truancy that were being brought against them.

18 64. At that point M.B. stepped out of the meeting and called her counsel for
19 advice

20 65. Counsel for Member Family 1 advised MC1-Mother to return to the
21 meeting with her cell phone on speaker whereupon her counsel advised counsel
22 for the District Attorney's office that MC1-Mother was a represented party and
23 could not be interviewed by counsel for the District Attorney in a potential
24 criminal matter without her counsel being present.


25 66. That concluded that meeting and MC1-Mother, MC1-Father, and M.H. left."

26 I declare under penalty of perjury under the laws of the State of California that
27
28

\\
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1 the foregoing is true and correct.

2 Executed this 28th day of May, 2025, in Ventura, California.

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5 _____
6 Neil K. Virani
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APPENDIX B

AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF; CASE 2:24-CV-03523-DJC-SCR
FILED 03/24/2025; DKT 16

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Free Now Foundation, and Brave And Free
Santa Cruz, Minor Child #1, Mother and
Father of Minor Child #1; Minor Child #,
Mother of Minor Child #2, Minor Child
#3, Mother, Father, and Adult Brother of
Minor Child #3, Minor Child #4, Mother
and Father of Minor Child #4;

Plaintiffs

vs.

Tomás Aragón In His Official Capacity As
Director Of The California Department Of
Public Health, and Courtney Johnson, In
Her Official Capacity As Principal,
Foothill Technology High School, Ventura
Unified School District; Monica Morales,
Director, Santa Cruz County Health
Services Agency,

Defendants

CASE NO. 2:24-cv-03523-DJC-SCR

**AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

DEMAND FOR JURY TRIAL

(1) Infringement Of The Fundamental Substantive Due Process Right Of Un-Immunized Plaintiff Children, As Exercised By Their Parents, To Refuse Medical Treatments, U.S. Constitution, Fourteenth Amendment, 42 U.S.C. § 1983
(2) Infringement Of The Un-Immunized Plaintiffs' Fundamental Right To Refuse Vaccination Where The Vaccine Has Not Been Shown To Effectively Prevent Transmission Of The Infection To Others, Fourteenth Amendment, 42 U.S.C. § 1983
(3) Infringement Of The Fundamental Substantive Due Process Right Of Un-Immunized Plaintiff Children To Attend School, U.S. Constitution, Fourteenth Amendment, 42 U.S.C. § 1983
(4) Unconstitutional Conditioning Of Un-Immunized Plaintiffs' California Benefit Of A Free Public Education On Condition That Plaintiffs Give Up Their Fundamental Right To Refuse Medical Treatment, 42 U.S.C. § 1983
(5) Failure To Afford Strict Scrutiny Procedural Due Process To Children And Their Parents Who Wish To Exercise Their Fundamental Substantive Due Process Right To Refuse California's Immunization Mandates Required For School Attendance, 42 U.S.C. § 1983

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COME NOW Plaintiffs Free Now Foundation and Brave and Free Santa Cruz, by their attorney, and hereby allege against the Defendants as follows:

1. INTRODUCTION

1. The law is said to be long-settled that children can be required to be vaccinated to attend school (*Zucht v. King*¹) relying upon the 1905 *Jacobson v. Massachusetts*² small pox vaccination case).

2. However, a careful reading of *Jacobson* shows that: (1) the decision was based upon the consensus of the medical profession of the time, as adopted by the Massachusetts legislature, that small pox vaccination was safe and necessary to prevent the transmission of smallpox, (2) the decision rested upon a rational basis, as opposed to a strict scrutiny, standard of review, and (3) the decision was explicitly limited to its facts, namely, small pox vaccination as understood at the time and as applied to adults:

We now decide only that the statute covers the present case, and that nothing clearly appears that would justify this court in holding it to be unconstitutional and inoperative in its application to the plaintiff in error.

Id., at p. 39.

3. *Jacobson* has long been superceded by two developments, the more recent being an Act of Congress and the earlier one being the line of decisions by the U.S. Supreme Court setting forth the doctrine of strict scrutiny for the invasions of fundamental rights..

4. In 1986 the Congress recognized that newer vaccines, developed since 1905, can have serious, permanent, even fatal, complications when it enacted the Nation Childhood Vaccine Injury Act (NCVIA). The NCVIA established the National Vaccine Injury Compensation Program to compensate the victims of vaccine injury as the sole means of compensation for such injuries in lieu of tort claims asserted against vaccine makers, who now enjoy statutory immunity under that Act.

5. The enormity of vaccine-related injury and death from these often mandated immunizations is staggering. Since 1988, over 28,292 petitions have been filed with the National

¹ *Zucht v. King* 260 U.S. 174, 43 S.Ct. 24, 67 L.Ed. 194 (1922), citing *Jacobson v. Massachusetts*, 197 U.S. 11, 25 Sup. Ct. 358, 49 L. Ed. 643 (1905). In point of fact, *Zucht v. King* did not so hold; instead it dismissed the appeal as being brought on a writ of error whereas it should have been brought on a writ of certiorari. *Zucht v. King*, at 177.

² *Henning Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 25 S.Ct. 358, 49 L.Ed. 643 (1905).

1 Vaccine Injury Compensation Program (NVICP). Over that 30-year time period, 24,602 petitions have
 2 been adjudicated, with 11,671 of those determined to be compensable, while 12,931 were dismissed.
 3 Total compensation paid over the life of the program is approximately \$5.3 billion.³ As of December
 4 1, 2011 the NVICP had paid awards for 390 deaths.

5 6. If 11,671 airplane passengers had to be compensated \$5.3 billion for their injuries,
 6 federal regulators would have fixed the problem long ago and no one would have been allowed, much
 7 less mandated, to fly on those airplanes until the problem was fixed. If 390 airplane passengers had
 8 died in a plane crash, the National Transportation Safety Board (NTSB) would not have rested until
 9 it had a full understanding of why.

10 7. If 11,671 children had been so seriously injured by school bus accidents as to require
 11 \$5.3 billion in compensation, with 390 dead, children would have long ago been forbidden to ride in
 12 school buses until the problem was fixed and no responsible person would even dream of mandating
 13 that children ride on such school buses.

14 8. All these vaccine injuries and deaths requiring all this compensation has put many
 15 states, including California, in the position of requiring children to be immunized with vaccines that
 16 California knows full well will seriously and permanently injure, and even kill, some of them, with
 17 its courts still relying upon *Jacobson* for the authority to do so.⁴

18 9. **However, by mandating immunizations that it knows full well will permanently**
 19 **injure and kill some children, California has crossed a red line that forbids the state to harm**
 20 **some for the benefit of others.**

21 10. That bedrock principle of Anglo-Saxon law was cogently expressed in *McFall v.*
 22 *Shimp*.⁵ In that case McFall suffered from a rare bone marrow disease with a very dim prognosis for
 23 survival unless he received a bone marrow transplant from a compatible donor. A cousin, Shimp, was
 24 the only compatible donor but refused to donate the necessary bone marrow. McFall then sought an
 25 order from the court to require Shimp to donate the necessary bone marrow but the court refused to
 26

27 ³ National Vaccine Injury Compensation Program, Monthly Statistics Report, February 2025, as
 28 downloaded at:

<https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/vaccines/vicp-stats-02-01-25.pdf>

⁴ *Love v. State Dep't of Educ*, 29 Cal.App.5th 980, 985, 240 Cal.Rptr.3d 861 (2018).

⁵ *McFall v. Shimp*, 10 Pa. D. & C. 3d 90 - Pa: Court of Common Pleas 1978

1 issue such an order, stating that:

2 The common law has consistently held to a rule which provides that one human being is under
3 no legal compulsion to give aid or to take action to save another human being or to rescue. A
4 great deal has been written regarding this rule which, on the surface, appears to be revolting
5 in a moral sense. Introspection, however, will demonstrate that the rule is founded upon the
6 very essence of our free society. It is noteworthy that counsel for plaintiff has cited authority
7 which has developed in other societies in support of plaintiff's request in this instance. Our
8 society, contrary to many others, has as its first principle, the respect for the individual, and
9 that society and government exist to protect the individual from being invaded and hurt by
10 another. Many societies adopt a contrary view which has the individual existing to serve the
11 society as a whole. In preserving such a society as we have, it is bound to happen that great
moral conflicts will arise and will appear harsh in a given instance. In this case, the chancellor
is being asked to force one member of society to undergo a medical procedure which would
provide that part of that individual's body would be removed from him and given to another
so that the other could live. Morally, this decision rests with defendant, and, in the view of the
court, the refusal of defendant is morally indefensible. **For our law to compel defendant to
submit to an intrusion of his body would change every concept and principle upon which
our society is founded. To do so would defeat the sanctity of the individual, and would
impose a rule which would know no limits, and one could not imagine where the line
would be drawn.**⁶

12 11. Shimp was not asked to submit to anything known to the Congress to cause severe
13 injury and death, such as childhood vaccines, but only to donate some of his bone marrow which
14 would have caused him little harm in the short term and none in the long term.

15 12. *McFall v. Shimp* is an unusual case, not because the need to procure organs from donors
16 is uncommon, the need is very common. What was uncommon about the *McFall* case is that McFall
17 thought that he could get a court to order it, that's the unusual part. Everyone knows that, in this
18 country, the government and the courts do **not order** people to give up their organs for the benefit of
19 others, even if the donation would not seriously harm them. Indeed, reports of forced organ donation
20 in China are universally condemned in this country.

21 13. Many years before *McFall* the *Jacobson* court labored to find a legal principle upon
22 which it could justify the mandated smallpox vaccination policies that were enacted in that era. It
23 settled on the power of quarantine, analogizing that compulsory vaccination was just another measure
24 for controlling the spread of infection. However, neither the *Jacobson* court nor subsequent courts
25 have considered that: (1) whereas quarantine is merely a temporary inconvenience with no lasting
26 physical harms, mandated immunizations often do cause permanent harm and death, (2) whereas
27 quarantine is only applied for a short time to those few who are known to pose an imminent threat to
28 the public, mandated immunizations are applied long term to multitudes of healthy people who pose

⁶ *Id.*, at 91 (emphasis added.)

no imminent threat to anyone, (3) whereas those subjected to quarantine are entitled to due process of law to challenge the medical necessity for their quarantine,⁷ those subjected to mandated immunizations are entitled to no due process as to the medical necessity for their immunizations.

14. The *Jacobson* court more broadly construed mandated vaccination as being among the police powers of the state to “enact quarantine laws and health laws of every description...[a]ccording to settled principles, the police power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety.”

15. The *Jacobson* court then inquired as to whether “...any right given or secured by the Constitution is invaded by the statute as interpreted by the state court.” *Id.*, at 25-26. The Court held that, “[t]he possession and enjoyment of all rights are subject to such **reasonable** conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order, and morals of the community. *Id.*, at 26, emphasis added. Thus, under *Jacobson* in 1905, such mandated vaccination was reviewed under a deferential rational basis standard of review.

16. The *Jacobson* court considered the objections that Jacobson raised as to potential beneficial and harmful effects of smallpox vaccination in light of the medical opinion of the day and specifically limited its holding to that immunization and those facts at that time: “We now decide only that the statute covers the present case, and that nothing clearly appears that would justify this court in holding it to be unconstitutional and inoperative in its application to the plaintiff in error.”⁸

17. Thus, *Jacobson* is not authority for the power of the state to mandate, without infringing upon any constitutional rights, *any and all current or future* vaccines, for all persons, adults or children, regardless of their harms or effectiveness, especially now that the U.S. Congress has found that childhood vaccines **do cause injuries and deaths** and the federal government has paid out \$5.3 billion for those injuries and deaths under that legislation.

18. The other key *post-Jacobson* development was the Supreme Court’s adoption of the “strict scrutiny” standard of review in 1942 for state-mandated medical procedures in *Skinner v.*

⁷ *Jew Ho v. Williamson*, 103 F. 10 (1900)(finding that quarantine was simply a pretext to confine the Chinese population in San Francisco.)

⁸ *Henning Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11, 39, 25 S.Ct. 358, 49 L.Ed. 643 (1905).

1 *Oklahoma*.⁹ Given that the federal government has already determined that at least 11,000 have been
 2 injured or killed by childhood vaccines, there is no real room left to debate whether the vaccines
 3 mandated by the State of California for school attendance can cause serious, permanent, physical
 4 injury, just as in *Skinner*. Clearly, strict scrutiny applies.

5 19. The requirements for strict scrutiny review are well known and accepted: the measures
 6 under review must serve a “compelling government interest” and must do so “using the least restrictive
 7 means available.”¹⁰ But, what if the government *does* have a “compelling interest” and it *is* using the
 8 “least restrictive means available” can the government still then go ahead and impose hazardous
 9 conditions or treatments upon individuals or infringe on fundamental rights in order to achieve that
 10 greater, compelling government interest? Clearly, under *McFall*, the answer is **no**.

11 20. Indeed, the Congress has already found that the risk of harm from those mandated
 12 immunizations is so constant and foreseeable as to require legislation to provide for it. This clearly
 13 violates *McFall*’s “first principle, the respect for the individual, and that society and government exist
 14 to protect the individual from being invaded and hurt by another,” especially being intentionally hurt
 15 by the government itself.

16 21. The objection to this argument is that the parents are not forced to vaccinate their
 17 children if they are willing to forfeit their *Meyer-Pierce* right to educate their children. This, of course,
 18 is an unconstitutional conditions violation.¹¹ The state cannot require a child to give up one
 19 fundamental right in order to enjoy another.

20 22. Yet another objection is that healthy children should not have to sit next to infectious
 21 children in school. The simple solution is that children with fevers should not be sent to school and,
 22 if in school, should be dismissed, similar to the quarantine approved in *Jacobson*. Quarantine is a
 23 temporary solution that causes no harm other than temporary inconvenience, focused on actually
 24 infectious persons, whereas vaccination broadly affects an entire population, infectious or not,
 25

26 ⁹ *Skinner v. State of Oklahoma Williamson*, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942).
 27 The High Court has since expanded strict scrutiny review to many other cases where the state proposes
 28 to restrict or eliminate fundamental constitutional rights.

¹⁰ *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 US 520 (1993).

¹¹ *Perry v. Sindermann*, 408 U.S. 593, 597, 92 S.Ct. 2694, 33 L.Ed.2d 570 (1972)(government
 ... may not deny a benefit to a person on a basis that infringes his constitutionally protected interests.)

1 permanently and often without full knowledge of the long term effects of such immunizations.
 2 Furthermore, if persons wish themselves or their children to be vaccinated with approved vaccines,
 3 they may do so. But, if those vaccines are, indeed, effective, then there is no risk of infection regardless
 4 of whether the children sitting next to their children are immunized or not. As held in *McFall*, children
 5 do not have a duty to put themselves in harm's way for the supposed benefit of other children who
 6 should be protected by their own immunizations anyway if the parents wish for the child to be so
 7 protected.

8 23. Finally, there is a great problem in this case with the allocation of the burden of proof,
 9 which, under strict scrutiny, belongs to the state. Congress has already found childhood vaccines to
 10 be harmful such that Congress has given the manufacturers robust immunity from damage claims. Yet,
 11 California insists that it is the parents who should bear the burden of proof as to whether their children
 12 are at risk from those vaccines by being required to get exemption letters from doctors, doctors who
 13 are then stripped of their medical licenses for writing more than five in a year out of the thousands of
 14 children that they see.¹² It is as if the FAA mandated that people must fly in airplanes that the FAA
 15 insists are safe, ignoring all evidence to the contrary, that the burden of proof otherwise rests upon the
 16 lay passengers to prove that the airplane are unsafe for themselves and their children to fly in, that any
 17 airplane inspectors who report any hazards will be investigated and likely fired, that the airplane
 18 manufacturers enjoy statutory immunity, and the children whose parents refuse to accept such risks
 19 may then never leave home. Seriously, how does such a law survive strict, or even rational basis,
 20 scrutiny?

21 24. Far more importantly, this is not a strict scrutiny case where competing interests must
 22 be balanced "in the least restrictive" way. No, this is a *McFall* case where California has crossed a
 23 bright red line forbidding the state to compel innocent little infants and children to risk, and even lose,
 24 their lives and health for the benefit of others, a line that must be strictly enforced or no one will be
 25 free from government oppression.

26 **2. JURISDICTION AND VENUE**

27 **2.1 Subject Matter Jurisdiction**

28 25. This court has jurisdiction over this action because it arises under the laws of the United

¹² California Health and Safety Code Section 120372(d)(2)(B).
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1 States, 28 U.S.C. §§ 1331, 1343, and 1346, with the claims arising under 42 U.S.C. § 1983
2 (deprivation of civil rights).

3 26. This Court has authority to grant the requested injunctive relief under 28 U.S.C. Section
4 1343; the requested declaratory relief under 28 U.S.C. Sections 2201 and 2202, and costs and attorneys
5 and expert's fees under 42 U.S.C. section 1988 (b)-(c).

6 **2.2 Personal Jurisdiction**

7 27. Personal jurisdiction as to defendants Tomás Aragón, in his official capacity as Director
8 of the California Department of Public Health ("CDPH"), Courtney Johnson, in her official capacity
9 as Principal, Foothill Technology High School, Ventura Unified School District, and Monica Morales,
10 Director, Santa Cruz County Health Services Agency, arise under Fed.R.Civ.P., Rule 4(j).

11 **2.3 Venue**

12 28. Venue is appropriate in this court, under 28 U.S.C. § 1391, because a substantial part
13 of the acts giving rise to this lawsuit occurred in this district, specifically the acts of Tomás Aragón,
14 in his official capacity as Director of the California Department of Public Health.

15 **3. THE PLAINTIFFS**

16 **3.1 Plaintiff Free Now Foundation**

17 29. Plaintiff Free Now Foundation was incorporated as a non-profit corporation on April
18 7, 2023 and operates principally in California. It maintains a website at <https://freenowfoundation.org/>.

19 30. The main caption on that page is, "Defending Medical Freedom." The sub-caption on
20 that page is, "Because Parents Call the Shots."

21 31. One of the primary stated purposes of Free Now Foundation is to protect civil liberties
22 and health rights for all, especially children.

23 32. To this date, Free Now Foundation has approximately 30,000 members, with social
24 media followings in the tens of thousands. The Foundation included a "Legal Warrior Club." Members
25 of the Legal Warriors Club contribute funds monthly or as one time gifts to support the Foundation's
26 litigation activities.

27 33. A substantial number of Free Now Foundation's membership includes individuals who
28 question the constitutionality of CA Health & Safety Code Section 120335, and what right any
governmental or legislative body has to mandate that an individual forego one fundamental right for
another.

1 34. The members and followers of Free Now Foundation include significant numbers of
2 parents and grandparents of California children who wish to attend California schools, pre-schools,
3 and daycare centers without regard to their immunization status.

4 **3.2 Free Now Foundation Member Family #1: Minor Child #1 (MC1), His Mother**
5 **(MC1-Mother), And His Father, (MC1-Father)**

6 35. Member Family 1 in this amended complaint are members of the plaintiff association,
7 Free Now Foundation, and will be designated for purposes of protecting the privacy and identity of
8 the minor child in that family simply as “Member Family 1.”

9 36. The relevant members of Member Family 1 in this amended case consist of a 15 year
10 old minor child (MC1), his mother (MC1-Mother), and his father (MC1-Father).

11 37. MC1 attended Foothill Technology High School in the Ventura Unified School District
12 until the school went on vacation break at the end of calendar year 2024.

13 38. When MC1 returned to his high school on January 7, 2025 to resume his classes he was
14 summoned to the school’s administrative offices and informed that he could not return to school until
15 he complied with the school district’s immunization policies.

16 39. At that time his mother, MC1-Mother, was summoned to the school to take MC1 home
17 with her until she could produce school immunization records that were satisfactory to the school.

18 40. MC1-Mother did then submit immunization records for MC1 to the VUSD.

19 41. On January 29, 2025 principal Johnson sent a “First Notice of Truancy” to MC1-
20 Mother.

21 42. On January 29, 2025 MC1-Mother sent a request to her son’s science teacher requesting
22 the class assignments on which her son should be working.

23 43. Instead, on January 29, 2025 MC1-Mother received an email from Courtney Johnson,
24 principal of the Foothill Technology High School from which MC1 had been excluded on January 7
25 2025. In that email she informed MC1-Mother that the school would not be providing instructional
26 materials or assignments for MC1 during his exclusion from school.

27 44. On February 5, 2025 MC1-Mother received a “Chronic Notification” letter from
28 principal Johnson informing her that MC1 was then considered a “chronic truant” due to the number
of school days he had missed.

 45. Also on February 5, 2025 MC1-Mother received a “Second Notification Of Truancy”

1 from VUSD for MC1.

2 46. On February 11, 2025 Neil. K. Virani, Executive Director, Special Education & Pupil
3 Personnel Services for the Ventura Unified School District, sent a letter to MC1-Mother stating that
4 the mother's request for a medical exemption from VUSD's immunization requirements had been
5 reviewed by VUSD and denied.

6 47. Mr. Virani went on to state that:

7 After a thorough review of the materials you provided, the district has determined that the
8 documentation does not meet the criteria for a valid medical exemption as outlined in
9 California law. Specifically, the information submitted does not demonstrate that [MC1] has
a qualifying medical condition or circumstance that would prevent him from receiving the
required immunizations.

10 The California Department of Public Health's "Shots for School" website
11 (www.shotsforschool.org(<http://www.shotsforschool.org>)) clearly states the criteria for medical
12 exemptions. These include severe allergic reaction to a vaccine component, a weakened
immune system, or other rare medical conditions. The documentation you provided does not
meet these established standards.

13 Until proof of all required valid vaccinations are provided to VUSD Health Services, your
14 child will continue to be excluded from school. If you have any questions or require further
assistance, please do not hesitate to reach out. We are here to support you in resolving this
matter so your son can continue his education.

15 48. On February 26, 2025 MC1-Mother received a "Third Notification Of Truancy" from
16 principal Johnson.

17 49. On that same date MC1-Mother received a notice of a "SARB Meeting" from the
18 VUSD informing her that she was required to attend a meeting of the VUSD's School Attendance
19 Review Board on March 12, 2025 to discuss MC1's "habitual truancy."

20 50. That letter went on to inform her that:

21 Without your cooperation the only other alternative will be to refer this matter to the District
22 Attorney's Office for prosecution pursuant to CA Penal Codes §270.1(a) and/or §272(a)(1),
23 Education Code Section 48293 and/or Education Code Section 48454.

24 51. That letter also included a boxed warning stating that:

25 CALIFORNIA COMPULSORY EDUCATION CODE §48200

26 Each person between the ages of 6 and 18 years not exempted under the provisions of this
chapter or Chapter 3 (commencing with Section 48400) ~ subject to compulsory full-time
27 education. Each person subject to compulsory full-time education and each person subject to
compulsory continuation education not exempted under the provisions of Chapter 3
(commencing with Section 48400) shall attend the public full-time day school or continuation
28 school or classes and for the full time designated as the length of the school day by the
governing board of the school district in which the residency of either the parent or legal
guardian is located and each parent, guardian, or other person having control or charge of the
pupil shall send the pupil to the public full-time day school or continuation school or classes
and for the full time designated as the length of the school day by the governing board of the
school district in which the residence of either the parent or legal...

1 52. On March 10, 2025 MC1, his mother, his father, and a family friend, M.H., presented
2 themselves to principal Johnson at the administrative offices of MC1's high school and MC1-Mother
3 informed principal Johnson that her son was there to attend school that day.

4 53. However, MC1 was refused admission to school that day by principal Johnson,
5 ostensibly because he had not met the school's immunization polices.

6 54. During that meeting with principal Johnson, MC1-Mother informed principal Johnson
7 that her attorney wished to speak with the legal counsel for the VUSD regarding the attendance issue
8 and gave principal Johnson the contact information for her attorney.

9 55. An email from Mr. Virani to MC1-Mother later that day informed her that the school
10 would review the materials that she had provided to the school that morning but that MC1 would
11 continue to be excluded until that review was complete.

12 56. On March 11, 2025 the undersigned plaintiffs' counsel sent an email to counsel for the
13 VUSD, Anthony Ramos, informing him that: (1) MC1 and MC1-Mother were represented by counsel
14 and (2) that, since both were members of the Free Now Foundation, the interests of both would be
15 represented in a federal court case involving mandatory school immunizations in the Eastern District
16 of California by the Free Now Foundation in a case wherein the lead defendant was Tomás Aragón,
17 head of the California Department of Public Health, represented by the Attorney General's office, case
18 number 2:24-cv-03523-DJC-SCR.

19 57. Plaintiff's counsel then suggested that MC1 be allowed to continue to attend his school
20 during the period required to get a ruling on a preliminary injunction in that federal case that would
21 allow MC1 to continue to attend his school during the pendency of that litigation.

22 58. Plaintiff's counsel also noted to counsel Ramos the disciplinary hearing set for the next
23 day and asked that it be held in abeyance pending a ruling on plaintiff's forthcoming Motion for
24 Preliminary Injunction in that federal case so as to allow MC1 to continue in school during that federal
25 proceeding.

26 59. Plaintiff's counsel also noted that counsel for the office of the District Attorney for
27 Ventura County was on the list of attendees for the SARB meeting the next day and asked counsel
28 Ramos to forward plaintiff's counsel's requests to her as well,

 60. Plaintiff's counsel was never contacted by anyone from either the VUSD counsel office
nor the District Attorney's office.

1 61. The following morning of March 12, 2025 plaintiffs' counsel located the email address
2 for the assigned attorney in the Office of the Ventura County District Attorney, Ms. Laurel McWaters,
3 and sent her an email informing her of the federal litigation against California's mandated
4 immunizations, suggesting that the VUSD case be deferred until the California case was resolved, and
5 inviting her to call him to discuss the matter. She never called.

6 62. The SARB meeting went ahead on the afternoon of March 12, 2025. About a dozen
7 persons were in attendance for VUSD. Among them was an attorney from the Ventura County District
8 Attorney's office and two truancy officers. MC1-Mother, MC1-Father, and a family friend, M.H. were
9 present.

10 63. The head of the SARB informed MC1-Mother and MC1-Father of the charges of
11 truancy that were being brought against them.

12 64. At that point M.B. stepped out of the meeting and called her counsel for advice.

13 65. Counsel for Member Famil 1 advised MC1-Mother to return to the meeting with her
14 cell phone on speaker whereupon her counsel advised counsel for the District Attorney's office that
15 MC1-Mother was a represented party and could not be interviewed by counsel for the District Attorney
16 in a potential criminal matter without her counsel being present.

17 66. That concluded that meeting and MC1-Mother, MC1-Father, and M.H. left.

18 67. Neither counsel for VUSD nor the Ventura County District Attorney ever
19 acknowledged or responded to the inquiries of plaintiffs' counsel.

20 **3.3 Free Now Foundation Member Family 2: Minor Child #2 (MC2), His Mother**
21 **(MC2-Mother), And His Father, (MC2-Father)**

22 68. Member Family 2 in this amended complaint are dues-paying members of the plaintiff
23 association, Free Now Foundation, and will be designated for purposes of protecting the privacy and
24 identity of the minor child in that family simply as "Member Family 2."

25 69. The relevant members of Member Family 2 in this amended case consist of a 16 year
26 old minor child (MC2), her mother (MC2-Mother), and her father (MC2-Father).

27 70. MC2 received her first vaccines when she was 2 months old, a DTaP on 10/29/2008.
28 She had immediate swelling at the injection site. It was followed by fever, and a very miserable state
of being for 3 days afterwards.

71. MC2 's pediatrician recommended that the child come back and try to receive more

1 vaccines, which was done less than a month later on 11/14/2008. The child received Hib and PCV'7,
2 which again was followed by swelling at the injection site, projectile vomiting, spiked fever and
3 diarrhea. It was obviously getting worse. The child's mother tried again on 5/26/2009 with Polio,
4 PCV7, and Dtap. The same reactions occurred, followed by the child being sick.

5 72. Member Family 2 parents then decided not to vaccinate their daughter until she was
6 older. They received a medical vaccination waiver.

7 73. On July 18, 2016, Dr. Rachel N. West, D.O., completed a Medical Exemption to
8 Required Immunizations form for MC2 in this action, including permanent exemptions for polio,
9 DTaP, MMR, HIB, Hepatitis B, varicella, and Tdap.

10 74. In 2023, MC2-Mother was told that the immunization exemption from 2016 was no
11 longer valid and that her daughter would either have to get the necessary immunizations or another
12 medical exemption.

13 75. On April 12, 2023, on the advice of MC2's then doctor, MC2 received immunizations
14 for MMR, MenACWY, and varicella. The child immediately became quite ill with intractable
15 vomiting for two days. The child's doctor told MC2-Mother that her daughter should not get any more
16 immunizations, and the child has not gotten any more since.

17 76. MC2 began the 2024-2025 school year attending a public high school in the Los
18 Angeles Unified School District. Her last day in that school was December 20, 2024 when school let
19 out for the holidays. While on holiday, her high school was destroyed in the recent Los Angeles Fires.

20 77. Because of the fire that destroyed her daughter's public high school, MC2-Mother
21 found another, private, high school for MC2 to attend temporarily until her public school could re-
22 open. However, the new, private, school is a three-hour drive each way and the tuition is \$54,000 per
23 year. MC1 and her parents would like the child to return to her previous school as soon as possible.

24 78. On February 6, 2025, MC2-Mother received an email from the California Immunization
25 Registry Medical Exemption (CAIR-ME) Web Site informing her that:

26 Your child's medical exemption 130646 has been permanently revoked and is no longer valid.
27 The deadline to appeal the revocation has passed.

28 Within 10 school days of this notification, you must provide documentation showing your
child meets the immunization requirements to continue to attend school or child care. Your
child's physician and school or child care facility can help you determine which vaccines are
needed and next steps.

For more information, please go to Shots for School (ca.gov)

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California Department of Public Health | Immunization Branch
Email: medicalexemptions@cdph.ca.gov

MC2 and her mother have, or will soon, suffer(ed) injury by being excluded from MC2's previous, less remote, school when it re-opens, or even sooner if CAIR-ME causes her to be excluded from her current, interim, school on account of her vaccination status.

79. This permanent exclusion of MC2 from her public high school due to her immunization status is also a big setback for her because she has a special need to attend that public high school as she belongs to one of the school's very highly competitive athletic teams. The daughter's athletic team placement is very important to her since she expects to compete for admission to very competitive colleges, with her athletic experience and skills being important factors in that competition.

3.4 Free Now Foundation Member Family 3: Minor Child #3 (MC3), His Mother (MC3-Mother), His Father (MC3-Father), And His Adult Brother (MC3-Brother)

80. Member Family 3 in this amended complaint are members of the plaintiff association, Free Now Foundation, and will be designated for purposes of protecting the privacy and identity of the minor child in that family simply as "Member Family 3."

81. The relevant members of MC3 in this amended case consist of a 11 year old minor child (MC3), his mother (MC3-Mother), his father (MC3-Father), and an adult brother of the minor child, MC3-Brother. All are Hispanic Americans.

82. MC3 attends a private church school in Santa Cruz County.

83. Recently MC3-Brother was informed by the secretary of that school that she had been contacted by Lauren Tranchitia, BSN, RN, the Immunization Coordinator for the County of Santa Cruz Department of Public Health, and told by nurse Tranchita that his brother (MC3) must show that he has all the immunizations on the schedule that Ms. Tranchita left with the secretary, and which the secretary forwarded to MC3-Brother, in order to remain enrolled at the church school. The secretary stated to MC3-Brother that nurse Tranchita had stated that the immunizations should be completed within ten days.

84. MC3-Brother is a dues paying member of Free Now Foundation's Legal Warriors Club, which meets monthly.

3.5 Plaintiff Free Now Foundation Has Associational Standing In This Case

85. Those individual members and followers of Free Now Foundation who are the parents and grandparents of children who wish to attend California schools, pre-schools, and daycare centers

1 without regard to their immunization status would have standing in their own right in this case: (1) as
2 advocates for the rights of their minor children and grandchildren to attend California schools,
3 pre-schools, and daycare centers without regard to their immunization status, (2) because those parents
4 and grandparents of children who forego their rights to refuse those mandated immunizations in order
5 to attend California schools under Health and Safety Code Section 120335 are at risk of bearing the
6 personal and financial costs of caring for any of those children who become injured as a result of any
7 immunizations mandated for those children under California law, and (3) because they may have to
8 bear the personal and financial burdens of home-schooling the children excluded from public and
9 private schools under Health and Safety Code 120335 who choose not to comply with those
10 immunization mandates.

11 86. Because a significant number of members of Free Now Foundation have the right and
12 ability to sue in their own capacities, they have elected to have their interests be represented by
13 plaintiff Free Now Foundation in this case on behalf of all such members.

14 87. For these reasons, Free Now Foundation has associational standing in this proceeding.

15 88. The primary purpose of this lawsuit, to stop any and all further enforcement of Section
16 120335 by the State of California as applied to all California children, is specifically in line with and
17 germane to the purpose of Free Now Foundation's existence.

18 89. Free Now Foundation's primary mission is to raise money to fund litigation to advance
19 medical freedom.

20 90. Free Now Foundation, formerly the California Chapter of Children's Health Defense,
21 has filed numerous lawsuits to advance medical freedom in California, including:

- 22 (a) CHD-CA v. Loyola Marymount, suit over medical segregation for COVID
- 23 (b) CHD-CA v. Santa Clara University, suit over mandated COVID shots
- 24 (c) CHD-CA v. LAUSD, suit over mandated COVID shots
- 25 (d) CHD-CA v. Piedmont School District, suit over mandated COVID shots
- 26 (e) CHD-CA v. Placentia Yorba Linda School District, suit over mandated COVID masks
- 27 (f) CHD-CA v. OC Board of Supervisors, abuse of COVID CARES Act funds
- 28 (g) CHD-CA v. Newsom, suit over COVID lockdowns
- (h) CHD-CA & Hoang, suit over AB 2098 COVID doctor gag act.

44. For these reasons, Free Now Foundation has organizational standing in this proceeding.

3.6 Plaintiff Brave And Free Santa Cruz Has Associational Status In This Case

91. Plaintiff Brave And Free Santa Cruz is an unincorporated freedom advocacy group that was organized on July 4, 2022 with its principal activities in Santa Cruz County, California. It meets regularly in Santa Cruz County. It maintains a website at braveandfreesantacruz.org/.

92. The group meets monthly with attendance that varies between 20 and 100, depending on the speaker. It has 365 people on its email list. The group has a steering committee comprised of eight members that meets once a month. The group does a weekly outreach literature table at the Santa Cruz Farmer's Market.

93. The members of Brave and Free Santa Cruz include significant numbers of parents and grandparents of children who attend California schools, preschools, and daycare centers without regard to their immunization status.

94. Among the members of Brave and Free Santa Cruz are Member Family 4, consisting of plaintiff Minor Child 4 (MC4), his father, MC4-Father, and his mother, MC4-Mother. They reside in Santa Cruz County. MC4 is 16 years of age.

95. On the first day back from winter break 1/5/2022, MC4 was sent to the office of the Junior High School and told that he had to be picked up by his parents. He was no longer allowed to stay at school due to the fact that his immunizations were not up to date. MC4 at the time was a straight A student in accelerated classes. He was a member of the Junior Scholars Federation. He had many friends and participated in multiple clubs. He was devastated and humiliated having to leave and ultimately be excluded from in-person education. The school district actually sent his parents an exclusion letter.

96. MC4's parents do not wish him to have those immunizations because they believe that those immunizations could be harmful to their son and do not wish him to be thus harmed.

97. MC4 and his parents wish that MC4 could return to a public high school in his area but are barred from doing so by the vaccination requirements imposed upon MC4 by defendant Monica Morales, Director of the Santa Cruz County Health Services Agency..

98. MC4-Father and MC4-Mother are members of Brave and Free Santa Cruz. They wish to have Brave and Free Santa Cruz represent their interests and those of MC4 in this case.

99. Those members of Brave and Free Santa Cruz who are the parents and grandparents

1 of children who wish to attend California schools, preschools, and daycare centers without regard to
2 their immunization status, such as MC4, would have standing in their own right in this case: (1) as
3 advocates for the rights of their minor children and grandchildren to attend California schools,
4 pre-schools, and daycare centers without regard to their immunization status, (2) because those parents
5 and grandparents of children who forego their rights to refuse those mandated immunizations in order
6 to attend California schools under Health and Safety Code Section 120335 are at risk of bearing the
7 personal and financial costs of caring for any of those children who become injured as a result of any
8 immunizations mandated for those children under California law, and (3) because they may have to
9 bear the personal and financial burdens of home-schooling the children excluded from public and
10 private schools under Health and Safety Code 120335 who choose not to comply with those
11 immunization mandates.

12 100. Because members of Brave and Free Santa Cruz, such as MC4, have the right and
13 ability to sue in their own capacities, they have elected to have their interests represented by plaintiff
14 Brave and Free Santa Cruz in this case on behalf of all such members.

15 101. For these reasons, Brave and Free Santa Cruz has associational standing in this
16 proceeding.

17 102. The primary purpose of this lawsuit, to stop any and all further enforcement of Section
18 120335 by the State of California as applied to all California children, is specifically in line with and
19 germane to the purpose of Brave and Free Santa Cruz's existence, which is set forth in the group's
20 Mission Statement:

21 **MISSION STATEMENT**

22 Our mission is to build a large people's movement in Santa Cruz County to fight the World
23 Economic Forum's "Great Reset." Our movement will reach a critical mass strong enough to
24 maintain our freedoms, our health choices, and our economic well-being. We are active locally
25 to stop the damaging and unconstitutional mandates occurring under the pretext of the
26 Covid-19 pandemic, part of the Globalist's "Great Reset" plan for totalitarian control and
27 population reduction. We will resist and not cooperate with coercion and censorship. We will
28 not be subject to any form of dangerous injections and medical tyranny. We employ powerful
nonviolent strategies and educate ourselves to defeat the diabolical "Great Reset." We strive
to create a community that is based on loving cooperation and service to each other, so that we
may all thrive in a world that we are proud to pass on to future generations.

103. For all these reasons, Brave and Free Santa Cruz has associational standing in this
proceeding.

1 **4. THE DEFENDANTS**

2 **4.1 Defendant Tomás Aragón In His Official Capacity As Director Of The California**
3 **Department of Public Health**

4 104. The California Department of Public Health oversees the enforcement of California
5 Health and Safety Code Section 120335 as applied to all California educational and child care
6 facilities.

7 105. All California schools, public and private, and all pre-schools are required to file annual
8 reports with the California Department of Public Health as to the immunization status of all their
9 students.

10 106. Defendant Tomás Aragón, in his official capacity as Director of the California
11 Department of Public Health, has overall authority for the enforcement of California immunization
12 requirements for all of California public and private schools, pre-schools, and daycare centers.

13 107. Defendant Tomás Aragón, in his official capacity as Director of the California
14 Department of Public Health, has direct oversight responsibility for the California Immunization
15 Registry Medical Exemption (CAIR-ME) Web Site.

16 108. Defendant Tomás Aragón, in his official capacity as Director of the California
17 Department of Public Health, is, by virtue of his office, also the State Registrar of Vital Statistics under
18 Health and Safety Code Section 102175. As the State Registrar, he has supervisory powers over the
19 local registrars in each county. Health and Safety Code Section 102185, including as to the registration
20 of Sudden Unexpected Infant Deaths.

21 **4.2 Defendant Courtney Johnson, In Her Official Capacity As Principal, Foothill**
22 **Technology High School, Ventura Unified School District**

23 109. Foothill Technology High School is operated by the Ventura Unified School District
24 in Ventura Couty, California.

25 110. Defendant Courtney Johnson is currently the principal of the Foothill Technology High
26 School.

27 **4.3 Defendant Monica Morales, In Her Official Capacity As Director, Santa Cruz**
28 **County Health Services Agency**

111. Defendant Monica Morales is the current Director of the Santa Cruz County Health
Services Agency.

112. The Santa Cruz Department of Public Health is a unit within the Santa Cruz County

1 Health Services Agency.

2 113. Defendant Monica Morales, in her official capacity as Director of the Santa Cruz
3 County Health Services Agency, has overall responsibility for the enforcement of California's school
4 immunization requirements in the County of Santa Cruz.

5 114. Lauren Tranchitia, BSN, RN, is the Immunization Coordinator for the County of Santa
6 Cruz Department of Public Health. She reports to defendant Monica Morales.

7 **5. STATEMENT OF FACTS**

8 **5.1 California's Mandated Immunizations Under Health And Safety Code Section**
9 **120335**

10 115. California Health and Safety Code Section 120335, subsection (b) provides that:

11 (a) As used in this chapter, "governing authority" means the governing board of each school
12 district or the authority of each other private or public institution responsible for the operation
13 and control of the institution or the principal or administrator of each school or institution.

14 (b) The governing authority shall not unconditionally admit any person as a pupil of any
15 private or public elementary or secondary school, child care center, day nursery, nursery
16 school, family day care home, or development center, unless, prior to his or her first admission
17 to that institution, he or she has been fully immunized. The following are the diseases for
18 which immunizations shall be documented:

- 19 (1) Diphtheria.
- 20 (2) Haemophilus influenzae type b.
- 21 (3) Measles.
- 22 (4) Mumps.
- 23 (5) Pertussis (whooping cough).
- 24 (6) Poliomyelitis.
- 25 (7) Rubella.
- 26 (8) Tetanus.
- 27 (9) Hepatitis B.
- 28 (10) Varicella (chickenpox).

20 **5.2 Congress Finds That California's Mandated Immunizations Cause Permanent,**
21 **Compensable, Injury Under The National Childhood Vaccine Injury Act**
22 **(NCVIA) Of 1986**

23 116. In 1986 Congress enacted the National Childhood Vaccine Injury Act ("NCVIA"), now
24 codified as 42 U.S.C. §§ 300aa-1 to 300aa-34.

25 117. 42 U.S.C. § 300aa-22, subsection (b)(1) of the NCVIA provides that:

26 No vaccine manufacturer shall be liable in a civil action for damages arising from a
27 vaccine-related injury or death associated with the administration of a vaccine after October
28 1, 1988, if the injury or death resulted from side effects that were unavoidable even though the
vaccine was properly prepared and was accompanied by proper directions and warnings.

118. Thus, when a child sustains a "vaccine-related injury or death associated with the
administration of a vaccine" due to "side effects that were unavoidable," the manufacturer is immune
from suit for damages resulting from that "vaccine-related injury or death."

119. Instead, the child or surviving family must turn to the National Vaccine Injury Compensation Fund (“NVICF”)(42 U.S.C. §§ 300aa-10 to 19) for compensation for damages.

120. That process is initiated by the filing of a petition for compensation with the U.S. Court of Federal Claims, which then forwards the petition to a court-appointed special master for adjudication. (42 U.S.C. § 300aa-11.)

121. The special master then determines, by a preponderance of the evidence, whether the claimed injury or death was vaccine-related and thus compensable. (42 U.S.C. § 300aa-13.)

122. In doing so, the special master is guided by the Vaccine Injury Table, as set forth under 42 U.S.C. (I)(J) § 100.3:

In accordance with section 312(b) of the National Childhood Vaccine Injury Act of 1986, title III of Public Law 99-660, 100 Stat. 3779 (42 U.S.C. 300aa-1 note) and section 2114(c) of the Public Health Service Act, as amended (PHS Act) (42 U.S.C.300aa-14(c)), the following is a table of vaccines, the injuries, disabilities, illnesses, conditions, and deaths resulting from the administration of such vaccines, and the time period in which the first symptom or manifestation of onset or of the significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths is to occur after vaccine administration for purposes of receiving compensation under the Program. Paragraph (b) of this section sets forth additional provisions that are not separately listed in this Table but that constitute part of it.

123. The current, as of December 4, 2024, Vaccine Injury Table recognizes the following vaccine-related injuries as compensable under the NCVIA:

| Vaccine | Illness, disability, injury or condition covered | Time period for first symptom or manifestation of onset or of significant aggravation after vaccine administration |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| I. Vaccines containing tetanus toxoid (e.g., DTaP, DTP, DT, Td, or TT) | A. Anaphylaxis | ≤4 hours. |
| | B. Brachial Neuritis | 2-28 days (not less than 2 days and not more than 28 days). |
| | C. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | D. Vasovagal syncope | ≤1 hour. |
| II. Vaccines containing whole cell pertussis bacteria, extracted or partial cell pertussis bacteria, or specific pertussis antigen(s) (e.g., DTP, DTaP, P, DTP-Hib) | A. Anaphylaxis | ≤4 hours. |
| | B. Encephalopathy or encephalitis | ≤72 hours. |
| | C. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | D. Vasovagal syncope | ≤1 hour. |

| | | |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------|
| III. Vaccines containing measles, mumps, and rubella virus or any of its components (e.g., MMR, MM, MMRV) | A. Anaphylaxis | ≤4 hours. |
| | B. Encephalopathy or encephalitis | 5-15 days (not less than 5 days and not more than 15days). |
| | C. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | D. Vasovagal syncope | ≤1 hour. |
| IV. Vaccines containing rubella virus (e.g., MMR, MMRV) | A. Chronic arthritis | 7-42 days (not less than 7 days and not more than 42 days). |
| V. Vaccines containing measles virus(e.g., MMR, MM, MMRV) | A. Thrombocytopenic purpura | 7-30 days (not less than 7 days and not more than 30days). |
| | B. Vaccine-Strain Measles Viral Disease in an immunodeficient recipient | |
| | —Vaccine-strain virus identified | Not applicable. |
| | —If strain determination is not done or if laboratory testing is inconclusive | ≤12 months. |
| VI. Vaccines containing polio live virus(OPV) | A. Paralytic Polio | |
| | —in a non-immunodeficient recipient | ≤30 days. |
| | —in an immunodeficient recipient | ≤6 months. |
| | —in a vaccine associated community case | Not applicable. |
| | B. Vaccine-Strain PolioViral Infection | |
| | —in a non-immunodeficient recipient | ≤30 days. |
| | —in an immunodeficient recipient | ≤6 months. |
| | —in a vaccine associated community case | Not applicable. |
| VII. Vaccines containing polio inactivated virus (e.g., IPV) | A. Anaphylaxis | ≤4 hours. |
| | B. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | C. Vasovagal syncope | ≤1 hour. |
| VIII. Hepatitis B vaccines | A. Anaphylaxis | ≤4 hours. |

| | | |
|--------------------------------------------------|-------------------------------------------------------------------------------|-----------------------------------------------------------|
| | B. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | C. Vasovagal syncope | ≤1 hour. |
| IX. Haemophilus influenzae type b (Hib) vaccines | A. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | B. Vasovagal syncope | ≤1 hour. |
| X. Varicella vaccines | A. Anaphylaxis | ≤4 hours. |
| | B. Disseminated varicella vaccine-strain viral disease | |
| | —Vaccine-strain virus identified | Not applicable. |
| | —If strain determination is not done or if laboratory testing is inconclusive | 7-42 days (not less than 7days and not more than 42days). |
| | C. Varicella vaccine-strain viral reactivation | Not applicable. |
| | D. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | E. Vasovagal syncope | ≤1 hour. |
| XI. Rotavirus vaccines | A. Intussusception | 1-21 days (not less than 1day and not more than 21days). |
| XII. Pneumococcal conjugate vaccines | A. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | B. Vasovagal syncope | ≤1 hour. |
| XIII. Hepatitis A vaccines | A. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | B. Vasovagal syncope | ≤1 hour. |
| XIV. Seasonal influenza vaccines | A. Anaphylaxis | ≤4 hours. |
| | B. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | C. Vasovagal syncope | ≤1 hour. |
| XV. Meningococcal vaccines | A. Anaphylaxis | ≤4 hours. |
| | B. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | C. Vasovagal syncope | ≤1 hour. |
| XVI. Human papillomavirus (HPV) vaccines | A. Anaphylaxis | ≤4 hours. |
| | B. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | C. Vasovagal syncope | ≤1 hour. |

| | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------|
| XVII. Any new vaccine recommended by the Centers for Disease Control and Prevention for routine administration to children and/or pregnant women, after publication by the Secretary of a notice of coverage | A. Shoulder Injury Related to Vaccine Administration | ≤48 hours. |
| | B. Vasovagal syncope | ≤1 hour. |

124. Paragraph (b) of Section 100.3 above (the Vaccine Injury Table) provides that:

(b) Provisions that apply to all conditions listed.

(1) Any acute complication or sequela, including death, of the illness, disability, injury, or condition listed in paragraph (a) of this section (and defined in paragraphs (c) and (d) of this section) qualifies as a Table injury under paragraph (a) except when the definition in paragraph (c) requires exclusion...

125. If the special master determines that the claimed injury or death is compensable, then compensation is awarded from the Vaccine Injury Compensation Trust Fund, funded by a levy on vaccines. (42 U.S.C. § 300aa-14.)

126. When any of the adverse events listed in the Vaccine Injury Table occur, the health care provider(s) who administered the vaccine must report the adverse event to the Secretary of Health and Human Service. (42 U.S.C. § 300aa-25.) Those reports are then tabulated into the Vaccine Adverse Event Reporting System (VAERS).

127. As of November 29, 2024 there were 3,091 post-vaccination deaths in the U.S. reported to the VAERS system, with about two thirds of them in infants less than six months of age.

128. As of November 29, 2024 there were 262 post-vaccination deaths in California reported to the VAERS system, with about two thirds of them in infants less than six months of age.

5.3 Most Injuries And Deaths Due To California's Mandated Immunizations Are Not Compensable Under The NCVIA

129. Neither of the most common serious side effect of childhood vaccine administration, regressive autism spectrum disorder ("ASD"), nor Sudden Unexpected Infant Death Syndrome ("SUID") are even mentioned in the Vaccine Injury Table, much less compensated.

130. Autism Spectrum Disorder now causes long term disability in about 1 in every 22 California children, with 80% of the affected being boys. About one fourth are profoundly affected, meaning that they have a vocabulary of only a few dozen words and will require supervision for their whole lives, usually borne by their families, especially their mothers.

131. The most common cause of death in infants between the ages of one month and twelve

1 months of age is Sudden Unexpected Infant Death (“SUID”), now about 3,300 per year in the U.S.,
2 with more than half occurring within the first 72 hours after an immunization and more than 70%
3 within the first week.

4 132. Nor are vaccine manufacturers required to warn parents of the dangers of ASD or SUID
5 since all they are required to provide for warnings are those developed by the Secretary of the U.S.
6 Department of Health and Human Services, known as Vaccine Information Sheets (“VIS”). (42 U.S.C.
7 § 300aa-26.) None of those Vaccine Information Sheets even mention Autism Spectrum Disorder or
8 Sudden Unexpected Infant Death.

9 **5.4 California’s Mandated Immunizations Have Many Unavoidable Adverse Effects,**
10 **Including Neuro-Developmental Delay And Learning Disability**

11 **5.4.1 The Many Immunizations Required To Attend School In California**

12 133. Thirty-two immunizations for ten different infectious diseases are mandated for
13 children to be allowed to enter kindergarten in California, as shown below:¹³
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¹³ Shots Required For TK-12 and 7th Grade. California Department of Public Health.
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/School/tk-12-immunizations.aspx>
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Shots Required for TK–12 and 7th Grade

En Español



Students Admitted at TK/K–12 Need Records of:

- **Diphtheria, Tetanus, and Pertussis (DTaP, DTP, Tdap, or Td) — 5 doses**
(4 doses OK if one was given on or after 4th birthday. 3 doses OK if one was given on or after 7th birthday.)
For 7th–12th graders, at least 1 dose of pertussis-containing vaccine is required on or after 7th birthday.
- **Polio (OPV or IPV) — 4 doses**
(3 doses OK if one was given on or after 4th birthday)
- **Hepatitis B — 3 doses**
(Required at admission to any grade except 7th grade)
- **Measles, Mumps, and Rubella (MMR) — 2 doses**
(Both given on or after 1st birthday)
- **Varicella (Chickenpox) — 2 doses**

The TK/K–12 immunization requirements apply to new admissions and transfers for all grades, including 7th grade, and students whose exemptions are no longer valid.

Students Advancing to 7th Grade Need Records of:

- **Tetanus, Diphtheria, Pertussis (Tdap) — 1 dose**
(Whooping cough booster usually given at 11 years and up)
- **Varicella (Chickenpox) — 2 doses**
(Usually given at ages 12 months and 4–6 years)

California schools are required to check immunization records for all new student admissions at transitional kindergarten (TK)/Kindergarten through 12th grade and all students advancing to 7th grade before entry. Parents must show their child's Immunization Record as proof of immunization.

134. The CDC recommends that the following twenty eight immunizations be given within the first fifteen months of life, including fifteen immunizations within the first six month of life when children are most vulnerable to Sudden Unexplained Death Syndrome:¹⁴

¹⁴ Child and Adolescent Immunization Schedule by Age. CDC.
<https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html>

Birth to 15 Months

These recommendations must be read with the notes that follow. For those who fall behind or start late, provide catch-up vaccination at the earliest opportunity as indicated by the green bars. To determine minimum intervals between doses, see the catch-up schedule (Table 2).

| Vaccine and other immunizing agents | Birth | 1 mo | 2 mos | 4 mos | 6 mos | 9 mos | 12 mos | 15 mos |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|--------------------------|---------------------------|----------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------|--------|--------------------------|
| Respiratory syncytial virus ⓘ (RSV-mAb [Nirsevimab]) | 1 dose depending on maternal RSV vaccination status, See notes | | | | | 1 dose (8 through 19 months), See notes | | |
| Hepatitis B ⓘ (HepB) | 1 st dose | → 2 nd dose → | | | → 3 rd dose → | | | |
| Rotavirus (RV) ⓘ RV1 (2-dose series); RV5 (3-dose series) | | | 1 st dose | 2 nd dose | See notes | | | |
| Diphtheria, tetanus, & acellular pertussis ⓘ (DTaP: <7 yrs) | | | 1 st dose | 2 nd dose | 3 rd dose | | | → 4 th dose → |
| Haemophilus influenzae type b ⓘ (Hib) | | | 1 st dose | 2 nd dose | See notes | → 3 rd or 4 th dose, See notes → | | |
| Pneumococcal conjugate ⓘ (PCV15, PCV20) | | | 1 st dose | 2 nd dose | 3 rd dose | → 4 th dose → | | |
| Inactivated poliovirus ⓘ (IPV: <18 yrs) | | | 1 st dose | 2 nd dose | → 3 rd dose → | | | |
| COVID-19 ⓘ (1vCOV-mRNA, 1vCOV-aPS) | | | | | 1 or more doses of updated (2023–2024 Formula) vaccine (See notes) | | | |
| Influenza (IIV4) ⓘ | | | | | Annual vaccination 1 or 2 doses | | | |
| or Influenza (LAIV4) ⓘ | | | | | | | | |
| Measles, mumps, rubella ⓘ (MMR) | | | | | See notes | → 1 st dose → | | |
| Varicella ⓘ (VAR) | | | | | | → 1 st dose → | | |
| Hepatitis A ⓘ (HepA) | | | | | (See notes) | → 2-dose series, See notes → | | |
| Tetanus, diphtheria, & acellular pertussis ⓘ (Tdap: ≥7 yrs) | | | | | | | | |
| Human papillomavirus ⓘ (HPV) | | | | | | | | |
| Meningococcal ⓘ (MenACWY-CRM ≥2 mos, MenACWY-TT ≥2years) | | | See notes | | | | | |
| Meningococcal B ⓘ (MenB-4C, MenB-FHbp) | | | | | | | | |
| Respiratory syncytial virus vaccine ⓘ (RSV [Abrysvo]) | | | | | | | | |
| Dengue ⓘ (DEN4CYD: 9-16 yrs) | | | | | | | | |
| Mpox ⓘ | | | | | | | | |

5.4.2 Neither California nor the CDC have reported studies comparing the adverse events in vaccinated children versus those in unvaccinated children (“VU Studies”, similar to Placebo-Controlled

Studies) To Prove The Safety And Effectiveness Of Their Vaccines

135. The VU studies shown below raise substantial questions about the safety of the vaccines mandated by California and recommended by the CDC. Plaintiffs offer these VU studies to raise the issue of the safety of the vaccines that California mandates for children and that the CDC

1 recommends. While the merits of these various VU studies can and should be debated, the larger and
2 more important point of presenting these VU studies is to make the point that neither California nor
3 the CDC have ever reported any of their own VU studies to refute them. The failure of California and
4 the CDC to report any refuting VU studies of their own should be taken as an adverse admission by
5 California and the CDC that the VU studies presented below are generally valid. Such VU studies are,
6 as Dr. Fauci once told the Congress,¹⁵ the “gold standard” for clinical research studies. The CDC
7 should have done them many years ago before recommending these vaccines for general use, including
8 for school children in California.

9 **5.4.3 Unofficial Studies Show That The Immunizations Mandated Under Health**
10 **and Safety Code Section 120335 Cause Serious, Irreparable, Injury And**
11 **Death**

12 **5.4.3.1 Comparison Of Autism Rates Between Vaccinated And**
13 **Unvaccinated Children (“VU Studies”) Show That Mandated**
14 **Immunizations Are The Likely Cause Of Many Cases Of**
15 **Childhood Autism, Especially Among African-American Boys**

16 136. As noted above, the CDC also continues, to this day, to represent that, “Any hint of a
17 problem with a vaccine prompts the CDC and FDA to carry out further investigations.”

18 137. As shown next, there are a lot more than just a few hints. In fact, there are ample data
19 from VU studies to show that many of the immunizations mandated under Health and Safety Code
20 Section 120335 are not safe, that they have numerous, serious adverse effects, up to and including
21 death.

22 138. Prospective randomized clinical trials (RCT’s) are ideal for identifying adverse events
23 caused by drugs. Some retrospective, epidemiological studies can also be valid, such as studies in
24 which a population of interest is identified wherein some subjects have already used the drug under
25 study whereas other “control” subjects have not. The incidence of adverse events in the drug-treated
26 population is then compared to the incidence in the control group and excess adverse events in the
27 treated group are ascribed to the drug under study unless some other confounding factor(s) are
28 identified to explain the differences.

139. Retrospective studies where vaccinated and unvaccinated groups occur naturally are
referred to as “VU studies.”

¹⁵ Fauci testifies on coronavirus response. CNN Politics, July 31, 2020.
<https://www.cnn.com/politics/live-news/fauci-coronavirus-testimony-07-31-20/index.html>.

5.4.3.1.1 Two VU Studies Found Lower Than Expected Rates Of Autism In The Amish Community That Has Low Rates Of Vaccination

140. In 2010, Robinson *et. al.* studied autism rates in an Old Order Amish community, where immunization is much less common, and reported that the incidence of Autism Spectrum Disorder in that community was 1 in 271 children and compared to the rate then prevailing generally in the United States of 1 in 91.¹⁶

141. In 2005 journalist Dan Olmsted looked into the question of, “Where are the autistic Amish?”¹⁷ He calculated, based on the then prevailing incidence of autism, that there should be about 50 children with classic, full-blown autism, easily recognized autism among the Amish population living in Lancaster County, Pennsylvania. (*Id.*) Despite diligently searching, even among classes for “special needs” children, he could only identify three such children. (*Id.*)

5.4.3.1.2 Autism And Other Neurodevelopmental Disorders Are Four Times More Common Among Vaccinated Homeschooled Children Than Among Those Homeschooled That Are Unvaccinated, And Even More Common Among Non-White Boys

142. In 2017 Mawson *et. al.* reported, in two published reports, Mawson I¹⁸ and Mawson II¹⁹, a study of 666 children who were home-schooled, of whom 261 (39%) were unvaccinated, 208 (31%) were partially vaccinated, and 197 (30%) were fully vaccinated. As a group the children were similar, mostly white (88%), with a slight preponderance of females (52%), and averaged 9 years of age. (*Id.*)

143. The first Mawson report (Mawson I) described the incidence of several acute and chronic conditions in both the vaccinated and unvaccinated groups.

144. The Mawson I paper presented its data in tabular format, more precise but less readable.

¹⁶ Prevalence Rates of Autism Spectrum Disorders Among the Old Order Amish. Robinson, J.L., *et al.*, <https://imfar.confex.com/imfar/2010/webprogram/Paper7336.html>.

¹⁷ The Age of Autism, The Amish anomaly. Dan Olmstead, April 18, 2005. Available at <https://drive.google.com/file/d/1BCJfmWLMrjSuZ8vRYa6LL4slSnhXdfk3/view>.

¹⁸ Mawson AR, Ray BD, Bhuiyan AR, Jacob B (2017) Pilot comparative study on the health of vaccinated and unvaccinated 6- to 12-year-old U.S. children. *J Transl Sci* 3: DOI: [10.15761/JTS.1000186](https://doi.org/10.15761/JTS.1000186) (Mawson I).

¹⁹ Mawson AR, Bhuiyan A, Jacob B, Ray BD (2017) Preterm birth, vaccination and neurodevelopmental disorders: a cross-sectional study of 6- to 12-year-old vaccinated and unvaccinated children. *J Transl Sci* 3: DOI: [10.15761/JTS.1000187](https://doi.org/10.15761/JTS.1000187) (Mawson II).

In their book, *Vax-Unvax*, Robert Kennedy Jr. and Brian Hooker transformed the Mawson tabular data into graphic form, which is more readily comprehended, as presented next.

145. Vaccinated children had far more chronic diseases than did those not vaccinated, including allergic rhinitis, allergy, attention deficit disorder, autism, eczema, learning disability, and neuro-developmental disorders, as illustrated below:²⁰

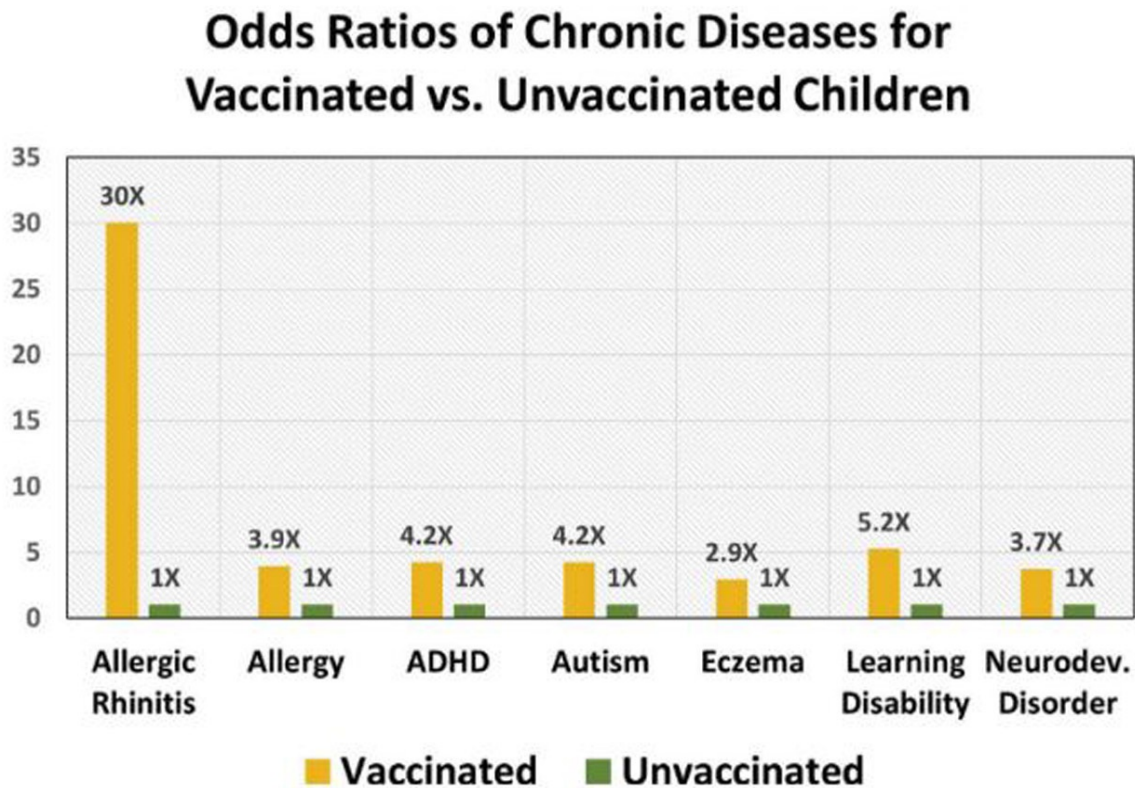


Figure 2.1—The odds ratios of chronic diseases for vaccinated versus unvaccinated children (Mawson et al. 2017a).

146. Recently Mawson *et al.* reported the incidence of autism in Florida children enrolled in that state's Medicaid program.²¹

²⁰ Robert Kennedy Jr, Brian Hooker. *Vax-Unvax*, Figure 2.1 (data of Mawson).

²¹ Mawson A R., Jacob B. Vaccination and Neurodevelopmental Disorders: A Study of Nine-Year-Old Children Enrolled in Medicaid. *Science, Public Health Policy and the Law*. 2025 Jan 23; v6.2019-2025

147. They reported that:

The analysis of claims data for 47,155 nine-year-old children revealed that: 1) vaccination was associated with significantly increased odds for all measured NDDs; 2) among children born preterm and vaccinated, 39.9% were diagnosed with at least one NDD compared to 15.7% among those born preterm and unvaccinated (OR 3.58, 95% CI: 2.80, 4.57); and 3) the relative risk of ASD increased according to the number of visits that included vaccinations. Children with just one vaccination visit were 1.7 times more likely to have been diagnosed with ASD than the unvaccinated (95% CI: 1.21, 2.35) whereas those with 11 or more visits were 4.4 times more likely to have been diagnosed with ASD than those with no visit for vaccination (95% CI: 2.85, 6.84).

148. According to the CDC, the incidence of autism in eight year old U.S. children is higher among African-American and Hispanic children.²²

| Prevalence of Autism Spectrum Disorder in 8-year-olds (2020) Data Courtesy of CDC ¹ | | | |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------|----------------------|
| | | Prevalence ² | Percent ² |
| Overall | | 27.6 per 1,000 | 2.8% |
| Sex | Boys | 43.0 per 1,000 | 4.3% |
| | Girls | 11.4 per 1,000 | 1.1% |
| Race/Ethnicity | White | 24.3 per 1,000 | 2.4% |
| | Black | 29.3 per 1,000 | 2.9% |
| | Asian/Pacific Islander | 33.4 per 1,000 | 3.3% |
| | Hispanic³ | 31.6 per 1,000 | 3.2% |
| | American Indian or Alaska Native (AI/AN) | 26.5 per 1,000 ⁴ | 2.7% |
| | Two or more races | 22.9 per 1,000 | 2.3% |

¹The percent (i.e., rate per 100) was calculated by NIMH.

²Please see the measurement caveats regarding age below.

³All other groups are non-Hispanic.

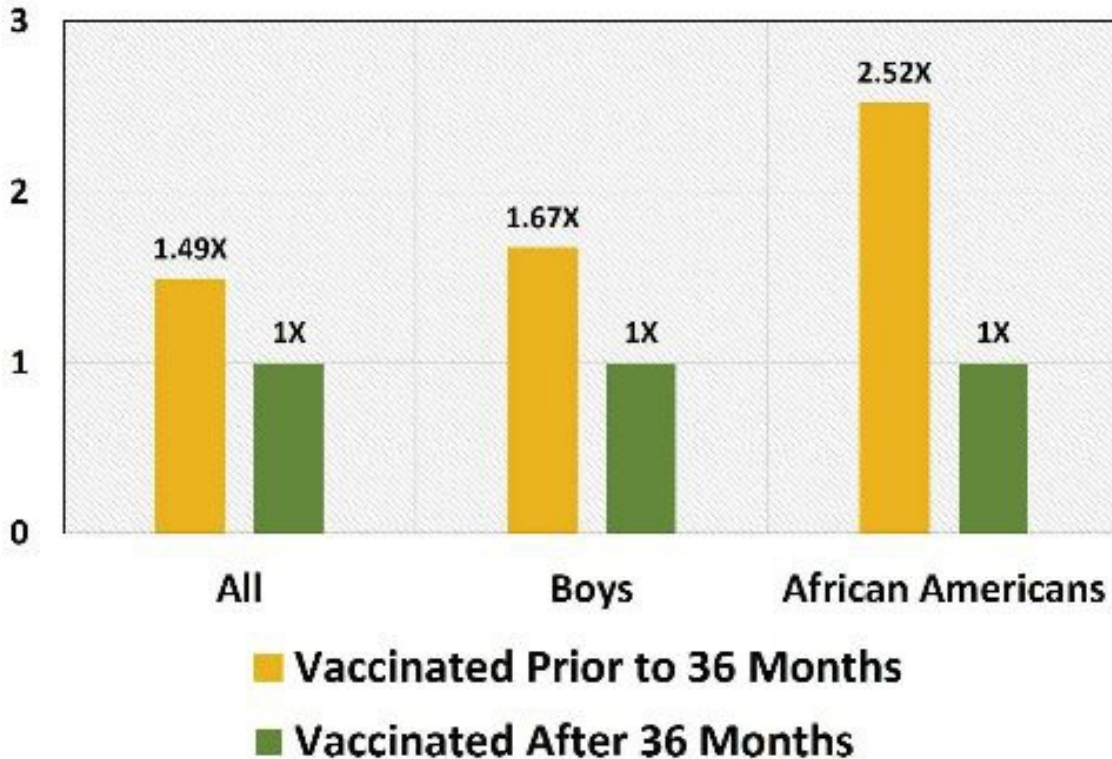
⁴Arizona was the only Autism and Developmental Disabilities Monitoring Network site meeting the threshold for statistical precision for AI/AN autism spectrum disorder prevalence in 2020; the Arizona site-specific prevalence was 26.8 per 1,000. Please see the ADDM publication for more information.

148. What the CDC has found but never publicly disclosed is that children vaccinated with the MMR (measles-mumps-rubella) vaccine before the age of 36 months are more likely to

²² Autism Spectrum Disorder (ASD) Identification among 8-year-old Children. CDC.
<https://www.cdc.gov/ncbddd/autism/addm-community-report/spotlight-on-racial-ethnic-differences.html>

develop autism that those vaccinated after 36 month of age, with the difference being much more striking among African-American children.²³

Odds of Autism with MMR Vaccine Before and After 36 Months of Age



150. The CDC concealed the data about the increased autism rate among the African-American children for many years until CDC whistle-blower William W. Thompson revealed it in 2014. Dr. Thompson released, through his attorney, a public statement on his role in publishing a research paper from the CDC on the relationship of immunization with the Measles/Mumps/Rubella (MMR) vaccine and the subsequent development of childhood autism:

I regret that my coauthors and I omitted statistically significant information in our 2004 article published in the journal *Pediatrics*. The omitted data suggested that African American males who received the MMR vaccine before age 36 months were at increased risk for autism. Decisions were made regarding which findings to report after the data were

²³ Robert Kennedy Jr, Brian Hooker. *Vax-Unvax*, Figure 4.1 (data of DeStefano *et al*, 2004).

1 collected, and I believe that the final study protocol was not followed.²⁴

2 151. It took ten years for this information to get to the public, and then not from the CDC
3 itself but only from one lone whistle blower, Dr. William Thompson. During that time untold
4 numbers of African-American boys developed autism following CDC-recommended
5 immunizations. Even after Dr. Thompson revealed the CDC's concealment of this important
6 information from the public, and especially from African-American parents of infant boys, the
7 CDC still made no attempt to get the word out to African-American parents. Instead, the CDC told
8 parents, including African-American parents, that "[a]dditional studies and a more recent rigorous
9 review by the Institute of Medicine have found that MMR vaccine does not increase the risk of
10 autism,²⁵ even though the Institute of Medicine review did not include African-American
11 children.²⁶

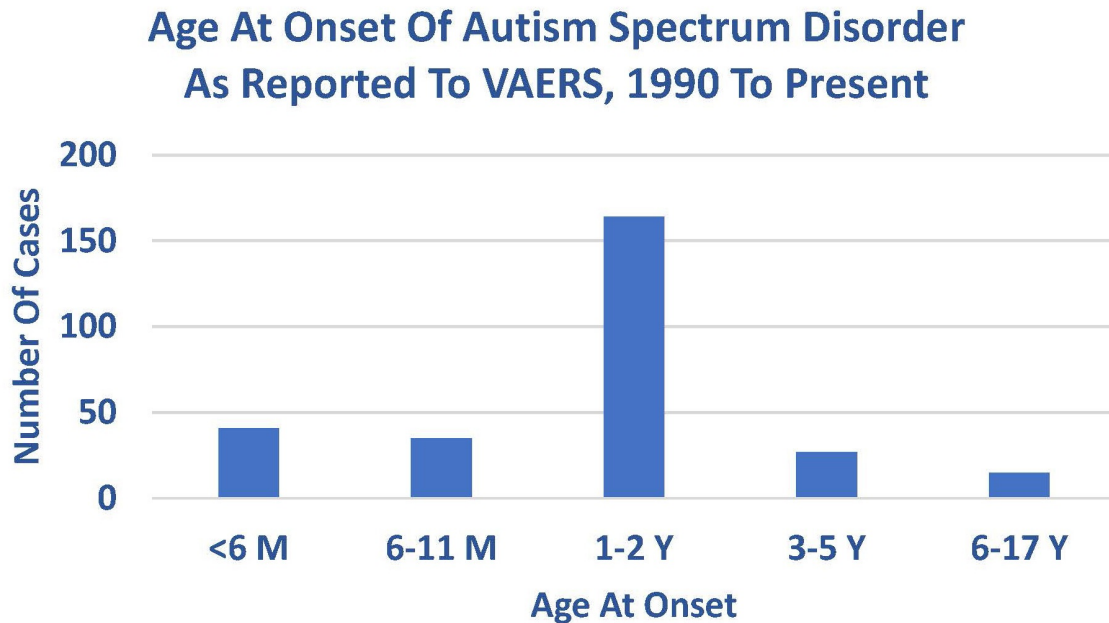
12 **5.4.3.1.3 According To The CDC's Vaccine Adverse Event**
13 **Reporting System (VAERS), The Most Common**
14 **Age For The Onset Of Autism Spectrum Disorder**
15 **Is Age One To Three Years And It Most**
16 **Commonly Strikes On The Very Same Day As A**
17 **Vaccination**

18 152. According to the CDC's VAERS database, the most common age for the onset of
19 Autism Spectrum Disorder (ASD) is age one to three years:
20
21
22
23
24

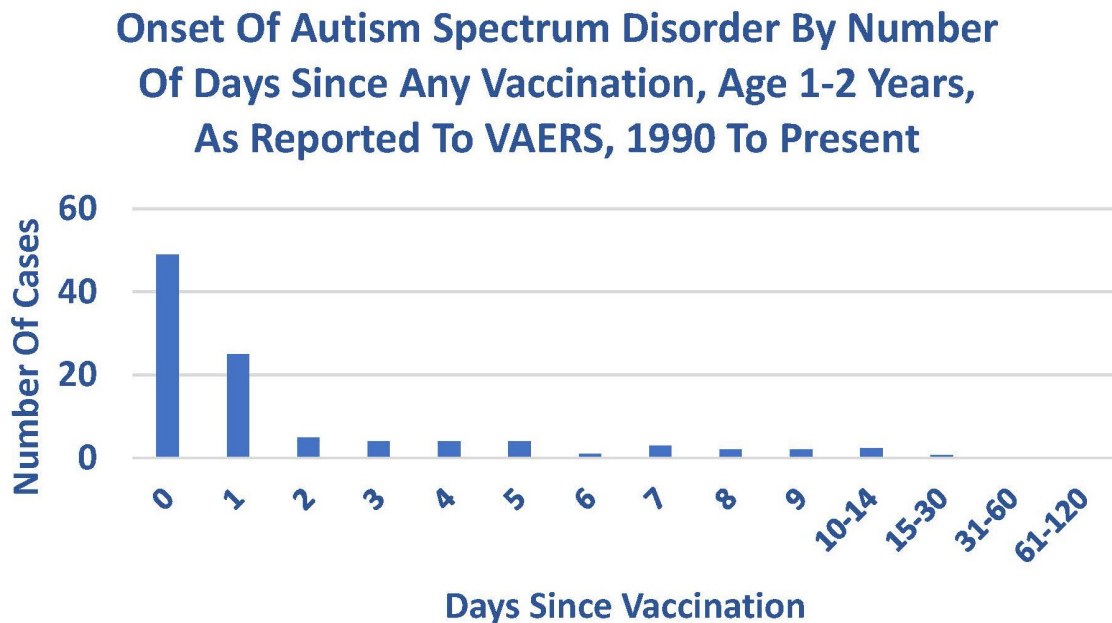
25 ²⁴ Statement of William W. Thompson, Ph.D., Regarding the 2004 Article Examining the
26 Possibility of a Relationship Between MMR Vaccine and Autism. August 27, 2014.

27 ²⁵ CDC Statement: 2004 MMR and Autism Study.
28 <https://www.cdc.gov/vaccinesafety/concerns/autism/cdc2004pediatrics.html>.

²⁶ Adverse Effects of Vaccines: Evidence and Causality [Institute of Medicine. 2012], pp. 145-
148. <https://www.nap.edu/catalog/13164/adverse-effects-of-vaccines-evidence-and-causality>



153. Among those one to three year old children who had the onset of ASD, it **most commonly occurred on the same day as a vaccination:**



154. As can be seen below on Table 2 of Mawson I, vaccinated children were less likely than unvaccinated children to have had the acute illnesses chickenpox (varicella, 74% less),

whooping cough (pertussis, 70% less), and rubella (84% less) while the vaccinated were more likely than the unvaccinated to have had otitis media (middle ear infection, 3.8 times more likely) and pneumonia (5.9 times more likely).²⁷

Table 2. Vaccination status and health outcomes – Acute Conditions

| | Vaccinated (n=405) | Unvaccinated (n=261) | Total (n=666) | Chi-square | P-value | Odds Ratio (95% CI) |
|----------------|--------------------|----------------------|---------------|------------|---------|---------------------|
| Chickenpox | | | | | | |
| Yes | 32 (7.9%) | 66 (25.3%) | 98 (14.7%) | 38.229 | < 0.001 | 0.26 (0.2 - 0.4) |
| No | 373 (92.1%) | 195 (74.7%) | 568 (85.3%) | | | |
| Otitis media | | | | | | |
| Yes | 80 (19.8%) | 16 (5.8%) | 96 (14.4%) | 26.643 | < 0.001 | 3.8 (2.1 - 6.6) |
| No | 325 (80.2%) | 245 (94.2%) | 570 (85.6%) | | | |
| Pneumonia | | | | | | |
| Yes | 26 (6.4%) | 3 (1.2%) | 29 (4.4%) | 10.585 | < 0.001 | 5.9 (1.8 - 19.7) |
| No | 379 (93.6%) | 258 (98.8%) | 637 (95.6%) | | | |
| Whooping cough | | | | | | |
| Yes | 10 (2.5%) | 22 (8.4%) | 32 (4.8%) | 12.326 | < 0.001 | 0.3 (0.1 - 0.6) |
| No | 395 (97.5%) | 239 (91.6%) | 634 (95.2%) | | | |
| Rubella | | | | | | |
| Yes | 1 (0.3%) | 5 (1.9%) | 6 (0.9%) | 4.951 | 0.037 | 0.1 (0.01 - 1.1) |
| No | 404 (99.6%) | 256 (98.1%) | 660 (99.1%) | | | |

155. As can be seen below on Table 3 of Mawson I,²⁸ vaccinated children were more likely than unvaccinated children to have had the chronic illnesses: (a) allergic rhinitis (30 times more likely), (b) allergies (3.9 times more likely), (c) attention deficit hyperactivity disorder (ADHD, (d) 4.2 times more likely), (e) autism spectrum disorder (ASD, 4.2 times more likely), (f) eczema (2.9 times more likely), (g) learning disability (5.2 times more likely), (h) neuro-developmental disorder (3.7 times more likely), and (i) any chronic condition (2.4 times more likely):

²⁷ Mawson, Table 2.

²⁸ Mawson Table 3.

Table 3. Vaccination status and health outcomes – Chronic Conditions

| Chronic Disease | Vaccinated (n=405) | Unvaccinated (n=261) | Chi-square | P-value | Odds Ratio (95% CI) |
|----------------------------|--------------------|----------------------|------------|---------|---------------------|
| Allergic rhinitis | | | | | |
| Yes | 42 (10.4%) | 1 (0.4%) | 26.21 | < 0.001 | 30.1 (4.1 - 219.3) |
| No | 363 (89.6%) | 260 (99.6%) | | | |
| Allergies | | | | | |
| Yes | 90 (22.2%) | 18 (6.9%) | 29.44 | < 0.001 | 3.9 (2.3 - 6.6) |
| No | 315 (77.9%) | 243 (93.1%) | | | |
| ADHD | | | | | |
| Yes | 19 (4.7%) | 3 (1.0%) | 6.23 | 0.013 | 4.2 (1.2 - 14.5) |
| No | 386 (95.3%) | 258 (99.0%) | | | |
| ASD | | | | | |
| Yes | 19 (4.7%) | 3 (1.0%) | 6.23 | 0.013 | 4.2 (1.2 - 14.5) |
| No | 386 (95.3%) | 258 (99.0%) | | | |
| Eczema (atopic dermatitis) | | | | | |
| Yes | 38 (9.5%) | 9 (3.6%) | 8.522 | 0.035 | 2.9 (1.4 - 6.1) |
| No | 367 (90.5%) | 252 (96.4%) | | | |
| Learning Disability | | | | | |
| Yes | 23 (5.7%) | 3 (1.2%) | 8.6803 | 0.003 | 5.2 (1.6 - 17.4) |
| No | 382 (94.3%) | 258 (98.9%) | | | |
| Neurodevelopment Disorder | | | | | |
| Yes | 42 (10.5%) | 8 (3.1%) | 12.198 | < 0.001 | 3.7 (1.7 - 7.9) |
| No | 313 (89.5%) | 253 (96.9%) | | | |
| Any Chronic Condition | | | | | |
| Yes | 178 (44.0%) | 65 (24.9%) | 24.8456 | < 0.001 | 2.4 (1.7 - 3.3) |
| No | 227 (56.0%) | 196 (75.1%) | | | |

156. Mawson I also reported, in Table 8, significant differences in neuro-developmental delay (NDD) outcomes based on the child's vaccination status (vaccinated 3.1 times more likely than unvaccinated), race (non-white 2.3 times more likely than white), sex (males 2.3 times more likely than females), and gestational age (preterm 5.0 times more likely than term).

Table 8. Adjusted logistic regression analyses of risk factors and NDD*

| | Adjusted Model (Model 1) | Adjusted Model with Interaction (Model 2) |
|--------------------------------------------------|--------------------------|-------------------------------------------|
| Vaccination Status | | |
| Vaccinated | 3.1 (1.4 - 6.8) | 2.5 (1.1 - 5.6) |
| Not Vaccinated | Ref | Ref |
| Race | | |
| Non-White | 2.3 (1.0 - 5.2) | 2.4 (1.1 - 5.4) |
| White | Ref | Ref |
| Child's Gender | | |
| Male | 2.3 (1.2 - 4.3) | 2.3 (1.2 - 4.4) |
| Female | Ref | Ref |
| Preterm birth | | NS |
| Yes | 5.0 (2.3 - 11.1) | |
| No | Ref | |
| Preterm birth and Vaccination interaction | | |
| No interaction | Not in the model | Ref |
| Preterm and Vaccinated | | 6.6 (2.8 - 15.5) |

*Number of observation read 666, number of observations used 629. NDD=47, Not NDD = 582

157. The Mawson II report looked in more detail and at the interactions of preterm birth and vaccination in the incidence of neurodevelopmental delay (NDD). It found that, as compared to unvaccinated children born at term, preterm unvaccinated children were only about 1.14 times as likely to develop NDD, term and vaccinated children about 2.7 times as likely to develop NDD, preterm and vaccinated children about 14.5 times more likely to develop NDD, as shown below:²⁹

²⁹ Mawson II, Table 5.

Table 3. Vaccination status and types of NDD

| Condition | Vaccination Status | n (%) | OR (95% CI) | P-value* |
|----------------------------|----------------------|------------|-----------------|----------|
| ADHD | Vaccinated (N=405) | 19 (4.69) | 4.3 (1.3, 14.5) | 0.013 |
| | Unvaccinated (n=261) | 3 (1.15) | | |
| ASD | Vaccinated (N=405) | 19 (4.69) | 4.3 (1.2, 14.5) | 0.013 |
| | Unvaccinated (n=261) | 3 (1.15) | | |
| Learning Disability | Vaccinated (N=405) | 23 (5.68) | | |
| | Unvaccinated (n=261) | 3 (1.15) | 5.2 (1.5, 17.5) | 0.003 |
| Any NDD | Vaccinated (N=405) | 42 (10.37) | 3.7 (1.7, 7.9) | 0.005 |
| | Unvaccinated (n=261) | 8 (3.03) | | |

* From Fisher's exact test.

| | | | | |
|---------------------------------------------|---|-----|--|--|
| Not Preterm and Unvaccinated (P-/V-) | 8 | 241 | | |
|---------------------------------------------|---|-----|--|--|

* From Fisher's exact test.

** Calculated by adding 0.5 to each cell because of zero count.

158. Table 3 in Mawson II broke down the subtypes of NDD reported. Attention Deficit Hyperactivity Disorder (ADHD) was 4.3 times more common in vaccinated children as compared to those unvaccinated; Autism Spectrum Disorder was 4.3 times more common in vaccinated children as compared to those unvaccinated; Learning Disability was 5.2 times more common in vaccinated children as compared to those unvaccinated; any neurodevelopmental delay (NDD) was 3.7 times more common in vaccinated children as compared to those unvaccinated; all as shown below:³⁰

5.4.3.1.4 Autism Is More Common Among Ethiopian And Somali Children Born In Western Countries Than Among Those Born In Their Native Countries

159. A 2004 Israeli study compared the incidence of Pervasive Developmental Disorder (PDD) among Israeli children born in Israel as compared to the incidence among Israeli children

³⁰Mawson II, Table 3.

born abroad, especially in Ethiopia, who then emigrated to Israel.³¹ Of 15,600 children born in Israel of Ethiopian descent there were 13 cases of PDD for an incidence of 8.3 per 10,000 versus no cases at all among 11,800 children born in Ethiopia who then emigrated to Israel. For children born in Israel not of Ethiopian descent, the incidence was 991 cases among 1,098,300 for an incidence rate of 9.0 per 10,000 as compared to 59 cases among 110,300 born abroad other than in Ethiopia for an incidence of 5.3 per 10,000, as shown below:

| | Born abroad | | | Israel-born | | |
|-------------|-------------|---------|---------|-------------|-----------|-----------|
| | Ethiopian | Other | Total | Ethiopian | Other | Total |
| PDD | 0 | 59 | 59 | 13 | 991 | 1,004 |
| Total | 11,800 | 110,300 | 122,100 | 15,600 | 1,098,300 | 1,113,900 |
| Rate/10,000 | 0 | 5.3 | 4.8 | 8.3 | 9.0 | 9.0 |
| SE | 0 | 0.7 | 0.6 | 0.2 | 0.3 | 0.3 |

160. A similar finding was made among Somali children born in the United States, among whom severe autism is common whereas autism is unheard of in Somali or among Somali children born in Somalia who emigrated to the U.S.³²

5.4.3.1.5 U.S. Pediatric Doctors With Substantial Numbers Of Unvaccinated Children In Their Practices Find That Autism And Neurodevelopmental Delay Rates Are Much Higher Among The Vaccinated Than Among The Unvaccinated

161. In 2005 journalist Dan Olmsted did a follow-up study of an estimated 30,000 to 35,000 unvaccinated children in a Chicago-area pediatric practice that did not vaccinate its patients.³³ He reported that that pediatric practice had never seen a case of autism among its unvaccinated patients in the more than thirty years of the practice's existence. (*Id.*)

³¹ A prevalence estimate of pervasive developmental disorder among Immigrants to Israel and Israeli natives. A. Kamer *et al.* Soc Psychiatry Psychiatr Epidemiol (2004) 39 : 141–145. Available at <https://drive.google.com/open?id=1jXh9kgpJS77gnPZXw0-HX1BqeDloNAS3>

³² Why Is Autism Rate So High For Somalis In Minnesota? <https://www.youtube.com/watch?v=xUf4L6UQhbk>.

³³ The Age of Autism: 'A pretty big secret.' Dan Olmsted. UPI. December 7, 2005. https://www.upi.com/Health_News/2005/12/07/The-Age-of-Autism-A-pretty-big-secret/68291133982531/

162. Another very detailed observational VU study was reported by Lyons-Weiler and Thomas in 2020 entitled, “Relative Incidence of Office Visits and Cumulative Rates of Billed Diagnoses Along the Axis of Vaccination.”³⁴

163. The Lyons-Weiler and Thomas abstract stated that:

We performed a retrospective analysis spanning ten years of pediatric practice focused on patients with variable vaccination born into a practice, presenting a unique opportunity to study the effects of variable vaccination on outcomes. The average total incidence of billed office visits per outcome related to the outcomes were compared across groups (Relative Incidence of Office Visit (RIOV)). RIOV is shown to be more powerful than odds ratio of diagnoses. Full cohort, cumulative incidence analyses, matched for days of care, and matched for family history analyses were conducted across quantiles of vaccine uptake. Increased office visits related to many diagnoses were robust to days-of-care-matched analyses, family history, gender block, age block, and false discovery risk. Many outcomes had high RIOV odds ratios after matching for days-of-care (e.g., anemia (6.334), asthma (3.496), allergic rhinitis (6.479), and sinusitis (3.529), all significant under the Z-test). Developmental disorders were determined to be difficult to study due to extremely low prevalence in the practice, potentially attributable to high rates of vaccine cessation upon adverse events and family history of autoimmunity. Remarkably, zero of the 561 unvaccinated patients in the study had attention deficit hyperactivity disorder (ADHD) compared to 5.3% of the (partially and fully) vaccinated. The implications of these results for the net public health effects of whole-population vaccination and with respect for informed consent on human health are compelling. Our results give agency to calls for research conducted by individuals who are independent of any funding sources related to the vaccine industry. While the low rates of developmental disorders prevented sufficiently powered hypothesis testing, it is notable that the overall rate of autism spectrum disorder (0.361%) in the cohort is one-fifth that of the US national rate (1.851%). The practice-wide rate of ADHD was roughly half of the national rate. The data indicate that unvaccinated children in the practice are not unhealthier than the vaccinated and indeed the overall results may indicate that the unvaccinated pediatric patients in this practice are healthier overall than the vaccinated.

(*Id.*)

164. Figure 3 of the Lyons-Weiler and Thomas report shows that the likelihood that a child was seen in the office for a febrile illness was highly correlated with the child’s vaccination status, with highly vaccinated children far more likely than unvaccinated children to be seen for fever, while the rate of “wellness checks” did not vary with vaccination status:

³⁴ Relative Incidence of Office Visits and Cumulative Rates of Billed Diagnoses Along the Axis of Vaccination. J. Lyons-Weiler and Paul Thomas. Int. J. Environ. Res. Public Health 2020, 17, 8674. Available at [doi:10.3390/ijerph17228674](https://doi.org/10.3390/ijerph17228674). This paper was retracted by the publisher on July 22, 2021 for unstated reasons.

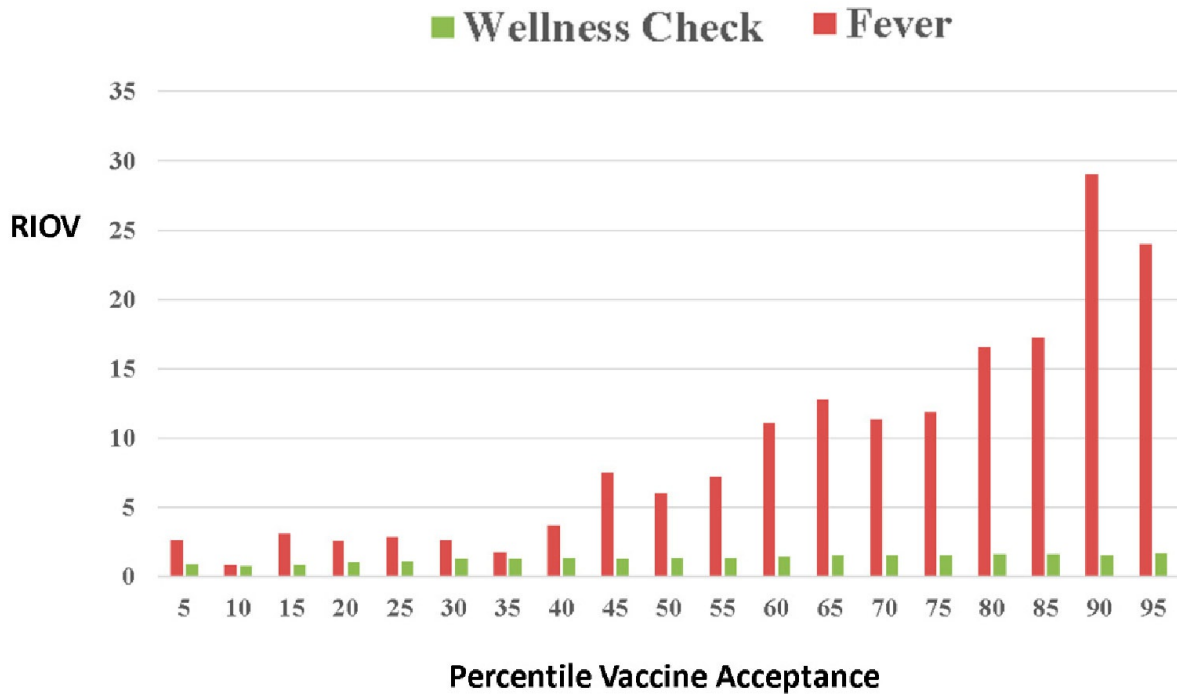


Figure 3. Relative Incidence of Office Visit (RIOV) percentile vaccinated vs. unvaccinated design of analysis: power decreases from left to right; thus, a stable trend (increase or decrease) becomes noteworthy. The data shown are for the Relative Incidence of Office Visits (RIOVs) to average incidence ratio of billed office visits related to fever in the vaccinated compared to the unvaccinated...conditions and for “Well Child” visit on the right. For all the clinical conditions studied, RIOV reflects the total number of billed office visits per condition per group, reflecting the total disease burden on the group and the population that it represents.

165. Figure 5 of the Lyons-Weiler and Thomas report shows that vaccinated children (in blue) were more likely to be seen earlier in life for most common pediatric illnesses than were unvaccinated children (in orange):

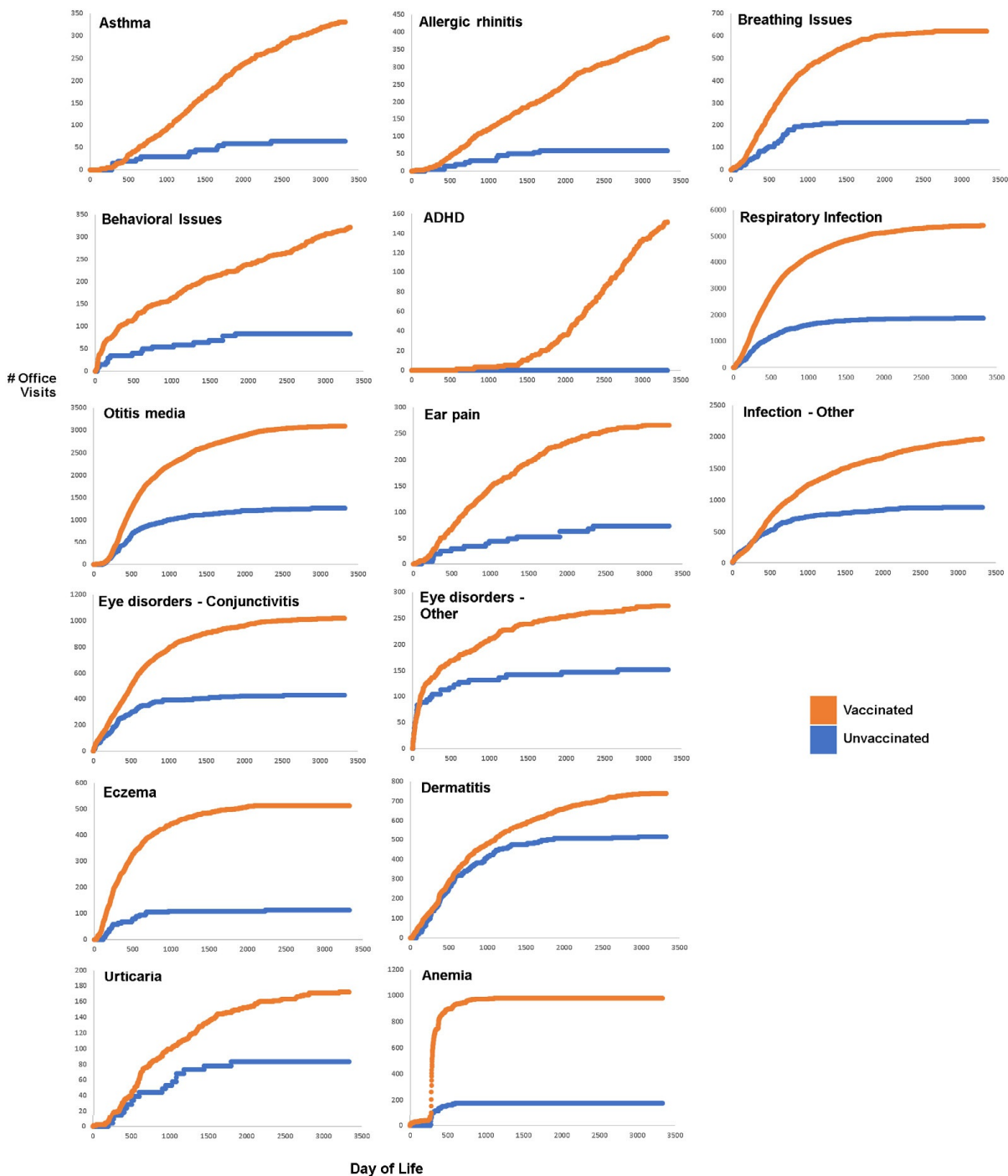


Figure 5. Analysis 5. Cumulative office visits in the vaccinated (orange) vs. unvaccinated (blue) patients born into the practice: the clarity of the age-specific differences in the health fates of individuals who are vaccinated (2,763) compared to the 561 unvaccinated in patients born into the practice over ten years is most strikingly clear in this comparison of the cumulative numbers of diagnoses in the two patient groups. The number of office visits for the unvaccinated is adjusted by a sample size multiplier factor (4.9) to the expected value as if the number of unvaccinated in the study was the same as the number of vaccinated.

166. Table 7 of the Lyons-Weiler and Thomas report shows that unvaccinated children developed three of thirteen vaccine-preventable illnesses, pertussis (whooping cough)(9 cases), rotavirus (causes diarrhea)(2 cases), and varicella (chickenpox)(23 cases) more commonly than did vaccinated children (1 case of pertussis), but these infections caused no deaths and there was no increased incidence for ten of the thirteen vaccine-preventable illnesses:

Table 7. Incidence of vaccine-targeted diagnoses in the study cohort.

| Vaccine Targeted Diagnosis | Vaccinated | Unvaccinated | Deaths |
|----------------------------|------------|--------------|--------|
| Diphtheria | 0 | 0 | 0 |
| Hepatitis A | 0 | 0 | 0 |
| Hepatitis B | 0 | 0 | 0 |
| HiB * | 0 | 0 | 0 |
| Measles | 0 | 0 | 0 |
| Meningococcus | 0 | 0 | 0 |
| Mumps | 0 | 0 | 0 |
| Pertussis | 1 | 9 | 0 |
| Pneumococcal | 0 | 0 | 0 |
| Rotavirus | 0 | 2 | 0 |
| Rubella | 0 | 0 | 0 |
| Tetanus | 0 | 0 | 0 |
| Varicella | 6 | 23 | 0 |
| Total ** | 7 | 34 | 0 |

* Haemophilus influenzae type B; ** Overall for all $\chi^2 = 99.51$. $p < 0.00001$.

5.4.3.1.6 If Childhood Vaccines Don't Cause Autism, How Do You Explain The McDowell Infant Triplets All Becoming Autistic On The Very Same Day Within A Few Hours Of Their CDC-Recommended Vaccinations?

167. If childhood vaccines don't cause autism, as the U.S. Centers For Disease Control (CDC) insists, then how does the CDC explain the case of the McDowell triplets who all became autistic within hours of a vaccination?

We had beautiful, healthy triplets in 2006: two boys and a girl. We had an agreed upon plan of spacing out vaccinations with our doctor.

1 On June 25, 2007 we went to a scheduled well baby visit with our healthy, completely
2 neuro-typical nine month old triplets. On this visit the planned vaccination was
3 pneumococcal. Upon injection, our daughter Claire screamed and became inconsolable,
4 with immediate swelling in her leg. We figured this was a normal reaction to a shot, so we
5 went on to give both boys their shot.

6 I am an educational audiologist who works with autistic children, so when by 12 noon
7 Claire lost all of her facial expressions and her reflexes disappeared, I recognized that she
8 was regressing before my eyes. By 2 pm we watched Richie shut down like Claire. By 5 pm
9 we watched in disbelief as Robbie lost all eye contact and desire to communicate.

10 All three children regressed into autism within hours of vaccination. They were diagnosed
11 with autoimmune encephalitis. A geneticist explained that the chance to this happening to 2
12 of our triplets would be 1 in 4 million. It happened to all 3. It is not genetic.

13 Where are all of the people who said that vaccines were safe? The vaccine injury was
14 acknowledged by our doctor, but was not reported to the vaccine adverse event reporting
15 system (VAERS), even though we specifically requested it. We were unaware that we
16 could self-report.³⁵

17 168. If the McDowell triplets had all gotten on a school bus intact and gotten off the
18 school bus the same day now autistic, there would be an investigation by the National
19 Transportation Safety Board, no children would be riding that bus anymore.

20 169. There are about 10,000 children born in the U.S. each day. The current rate at which
21 they will likely be diagnosed with Autism Spectrum Disorder is about 1 in 36,³⁶ or about 275 new
22 autism cases per day, day after day, month after month, year after year. Four out of five are boys,
23 making the incidence among boys a shocking one out of every 22.5. As seen above, it is likely that
24 many of them are vaccine-related.

25 170. If, instead, the cause of autism was riding on school buses, and 275 children got
26 onto the bus each morning intact and got off the bus at school suffering from autism, it would be a
27 national scandal. No children would allowed, much less mandated, to ride buses until the buses
28 were shown to be safe, safe to the satisfaction of the parents and not just the school bus makers and
the government officials mandating that the children ride them to get to school or they would not

³⁵ Brenda and David [McDowell] tell the story of their infant triplets, injured by a recalled pneumococcal vaccine.
<https://www.michiganvaccineinjury.org/post/2017/01/01/brenda-and-david-tell-the-story-of-their-infant-triplets-injured-by-a-recalled-pneumococcc>, Video at
https://www.youtube.com/watch?v=rLv_gNA0O54.

³⁶ Maenner MJ, Warren Z, Williams AR, et al. Prevalence and Characteristics of Autism Spectrum Disorder Among Children Aged 8 Years — Autism and Developmental Disabilities Monitoring Network, 11 Sites, United States, 2020. MMWR Surveill Summ 2023;72(No. SS-2):1–14. DOI: <http://dx.doi.org/10.15585/mmwr.ss7202a1>

1 be allowed to attend school.

2 **5.4.3.1.7 California, Where Childhood Immunizations Are**
3 **Strictly Enforced, Has A Child Autism Rate 64%**
4 **Higher Than The National Average**

5 171. California, a state in which childhood immunizations are strictly enforced, has a rate
6 of childhood autism reported as one in every twenty-two children, 64% higher than the national
7 average of one in thirty-six.

8 **5.4.3.2 Infant Immunizations Are The Likely Cause Of A Substantial**
9 **Number Of Sudden Unexpected Infant Deaths (SUID)(Crib**
10 **Deaths)**

11 172. While autism causes a great deal of cognitive harm to children and can lead to
12 decreased life expectancy, it does not kill very many children.

13 173. However, Sudden Unexpected Infant Death (SIUD) is estimated to actually *kill*
14 about 3,400 otherwise healthy infants each year in the United States.³⁷ Most of these infant deaths
15 are categorized into either Sudden Infant Death Syndrome (SIDS)(41%), unknown cause (32%), or
16 accidental suffocation or strangulation in bed (27%)(*id.*), based on investigative findings and post-
17 mortem examinations.

18 174. For unknown reasons, most such post-mortem investigations and post-mortem
19 examinations do not comment on the temporal relationship of the deceased infant's death with
20 recent immunizations.

21 **5.4.3.2.1 A Veteran Police Investigator Has Reported That**
22 **50% Of The More Than 250 SUID Cases She Has**
23 **Investigated Occurred Within 48 Hours Of The**
24 **Infant's Immunization And 70% Within One**
25 **Week**

26 175. According to the CDC, "Vaccines have not been shown to cause sudden infant
27 death syndrome (SIDS), citing "[m]ultiple research studies and safety reviews [that] ... do not show
28 any links between childhood immunization and SIDS."³⁸

176. But none of those cited studies were done in the modern era in which many more

27 ³⁷ "Sudden Unexpected Infant Death and Sudden Infant Death Syndrome." CDC.
28 <https://www.cdc.gov/sids/data.htm>.

³⁸ Sudden Infant Death Syndrome (SIDS) and Vaccines. CDC.
<https://www.cdc.gov/vaccinesafety/concerns/sids.html>.

1 immunizations are done to infants and few looked carefully at the time from immunization to the
2 time of death, and none studied the police reports of those deaths, which are done in all cases of
3 unexpected death.

4 177. Sudden unexpected infant deaths are routinely investigated by police investigators
5 to attempt to determine whether they were accidental or otherwise. A veteran SIDS police
6 investigator, Jennifer, was recently interviewed by medical commentator Steve Kirsch on her
7 experience with the temporal relationship of those deaths with infant immunizations:³⁹

8 **Kirsch:** Hi. Steve Kirsch here. I'm with Jennifer. Jennifer, uh, was a police officer at a in a
9 major city, about, what, three over 300,000 people. Both she and her husband worked in the
10 child abuse section of the of the police department, and so they handled the SIDS cases. So
she was very familiar with the SIDS cases that happened over approximately a seven year
period, which would comprise about 250 or more cases. So, tell me what you just told me
about the percentage of those cases that happened within 48 hours of a vaccination shot.

11 **Jennifer:** So I would, if I were to put a number on it, I would say around 50% of what we
saw was within 48 hours of vaccination.

12 **Kirsch:** Okay. And, uh, how about within a week? What percentage would of the of the
SIDS deaths would happen within a week after the shot?

13 **Jennifer:** I would say about 70%.

14 ...

Kirsch: Now you said that your husband, did you or your husband go to this police
conference ... was it a meeting with detectives who investigate these kinds of cases and
other cases?

15 **Jennifer:** Correct. And prosecutors and things like that.

16 **Kirsch:** So, so tell us what happened, what your husband reported at that conference in
terms of what the official narrative was, in terms of the speakers on the program and what
they talked about, and what the side conversations were at that conference.

17 **Jennifer:** So the central theme was that almost no death is a SIDS death. That, that was
18 fully admitted, and that was what the presenters, you know, reiterated throughout this-- this
was in St. Louis, throughout this conference. I think it was like a three-day conference. And
19 I would corroborate that by saying I've never seen a SIDS autopsy report that didn't list at
least one symptom. Never did the presenters say it was vaccines, but detectives throughout,
20 you know, the various agencies that came there for the training would have their side
conversations, and all of the detectives would say, "Yeah, we always see it after
21 vaccinations too." So it's kind of a common thing for detectives who investigate SIDS
deaths to know at least SIDS is kind of a false diagnosis ...

22 **Kirsch:** It sounds like from, from your well, I mean, if you had to put a percentage on it, I
mean, we talked about 70% within a week.

23 **Jennifer:** Correct.

24 **Kirsch:** Of the total number of deaths from SIDS, if you were to ascribe a cause of death,
because some are, are accidental, some are ... very interesting cases, but what percentage
would you put on that vaccine caused the [death] ... your personal opinion?

25 **Jennifer:** I would say probably 85% of the time, it's vaccine related.

26 **Kirsch:** 85% of the time. So essentially, the medical community realizes this, but they
write it off, what you're basically saying is they write it off and they justify it by saying that

27
28 ³⁹ "Former police detective reveals 50% of SIDS cases happened within 48 hours post vaccine."
9-26-2023.
[https://rumble.com/v314f9k-former-police-detective-reveals-50-of-sids-cases-happened-within-48-ho-
urs-p.html?utm_source=substack&utm_medium=email](https://rumble.com/v314f9k-former-police-detective-reveals-50-of-sids-cases-happened-within-48-hours-p.html?utm_source=substack&utm_medium=email)

1 the ends justify the means in that, "Yeah, we're gonna have these, these kids who are dying
2 from this, but the vaccine is so beneficial for the for the other kids that it's a good tradeoff.
And we'll try to minimize the vaccine hesitancy by telling parents that it wasn't the vaccine;
these things just happen," and hope...

3 **Jennifer:** Correct.

Kirsch: ...that the parents don't compare notes.

4 **Jennifer:** Correct.

Kirsch: That's how it's done?

5 **Jennifer:** That's how it's done.

Kirsch: And the physicians feel probably okay about that because they'll say, "Oh, well,
6 this is saving so many lives from polio and, and all this"

Jennifer: Yeah, the greater good ...

7 **Kirsch:** ...that, those deaths and if we were to tell people, admit to the public about the
deaths, that AIDS was, that 85% of these deaths are caused by vaccines, if we were to admit
8 to the problem, then that would destroy the public confidence in the vaccination program.
People wouldn't get vaccinated, and then people would get polio and meningitis and all this
9 other stuff, and, and that's far worse. So well, well, basically, we'll, we'll keep our mouth
shut about that and try to take them off that. In fact, they're, they're trained, you mentioned
10 that they were trained ...to get people off the scent.

Jennifer: Correct. 100%.

11 ...

Kirsch: Okay. And no doubt about these numbers, 50%.

12 **Jennifer:** No doubt ... Well, I will stand by that. I will die on that hill.

Kirsch: So, 50% within 48 hours of the vaccine. That is mortality.

13 **Jennifer:** Oh, and, you know, the other thing we didn't talk about was that that never goes
on an autopsy report. That was the other thing we never talked about.

14 **Kirsch:** What you mean, you mean that [the fact that] it was within 48 hours of a vaccine,
never goes on the autopsy report?

15 **Jennifer:** Oh, no. No. So anytime you do death...

Kirsch: No, I'm wrong or, or no, it doesn't?

16 **Jennifer:** No, no, no, you're correct. It does not go on an autopsy report.

Kirsch: That's, that seems very, very strange to me.

17 **Jennifer:** Well, and, and, and I...

Kirsch: Isn't it to you?

18 **Jennifer:** Oh, yeah. But I found out the reason why a couple of years later.

Kirsch: Okay.

19 **Jennifer:** Um, it's because it's a pharmaceutical that doesn't carry liability. So if the child
had a round of antibiotics, that would 100% be on a death report. But you can sue an
20 antibiotic pharmaceutical company, right? But...

Kirsch: Yeah.

21 **Jennifer:** ...are there any stats that show antibiotics kill people? No. I mean, maybe, like, in
really rare reactions, but they definitely don't have the record that vaccines have, right,
22 which was why the liability was removed in the first place, which would be a whole nother
show. But, so I that's honestly, that was, like, my trigger, where I'm like, "Whoa, wait.
23 Why, why is that not, not on there? But the fact that you put Johnson & Johnson baby
lotion on the baby the day before they died, like, why is that on there but this isn't?" That
24 seemed kind of a big deal to me.

Kirsch: Right.

25 **Jennifer:** And nobody in my office had an answer. I'm like, "Why don't we, why isn't the
medical examiner putting this on here?" And they were like, "I don't know." I mean, they
26 thought it was as crazy as I did. So I, and I don't remember where I found out, I don't know
if it was, like, in an online conversation with another police officer somewhere else or what
27 it was, but then it was like, "Oh, it's because of the liability. It's the only pharmaceutical that
doesn't have it. Therefore, it doesn't they don't have to do that." And I never really looked
28 past it. So you might...

Kirsch: Wow.

Jennifer: ...wanna look into that more and see if it's constant...

1 **Kirsch:** Yeah.

2 **Jennifer:** ...in other jurisdictions.

3 **Kirsch:** Yep.

4 **Jennifer:** I don't know.

5 178. This is a firsthand account of a police investigator specifically trained and
6 experienced in the investigation of these infant deaths, based on many years of experience
7 investigating such deaths. For these reasons she should be considered highly credible on this issue.

8 179. This police investigator also stated that the temporal relationship of infant
9 immunizations to SIDS deaths would be acknowledged informally at conferences of SIDS police
10 investigators but never formally.

11 180. This police investigator also stated that, in her experience, there seemed to be an
12 unspoken rule that the medical examiner's report never stated the relationship of the time of death
13 to any recent immunizations. (*Id.*)

14 **5.4.3.2.2 VAERS Data From The CDC Also Show
15 Increased Frequency Of Sudden Unexplained
16 Infant Death (SUID) Immediately Following
17 Infant Immunizations**

18 181. Data from the CDC's VAERS database corroborates investigator Jennifer's
19 personal observation that most SUID deaths occur shortly after an infant immunization:⁴⁰
20
21
22
23
24
25
26
27

28 ⁴⁰ N.Z. Miller: Vaccines and sudden infant death: An analysis of the VAERS database
1990–2019 and review of the medical literature. Toxicology Reports 8 (2021) 1324–1335.
<https://doi.org/10.1016/j.toxrep.2021.06.020>.

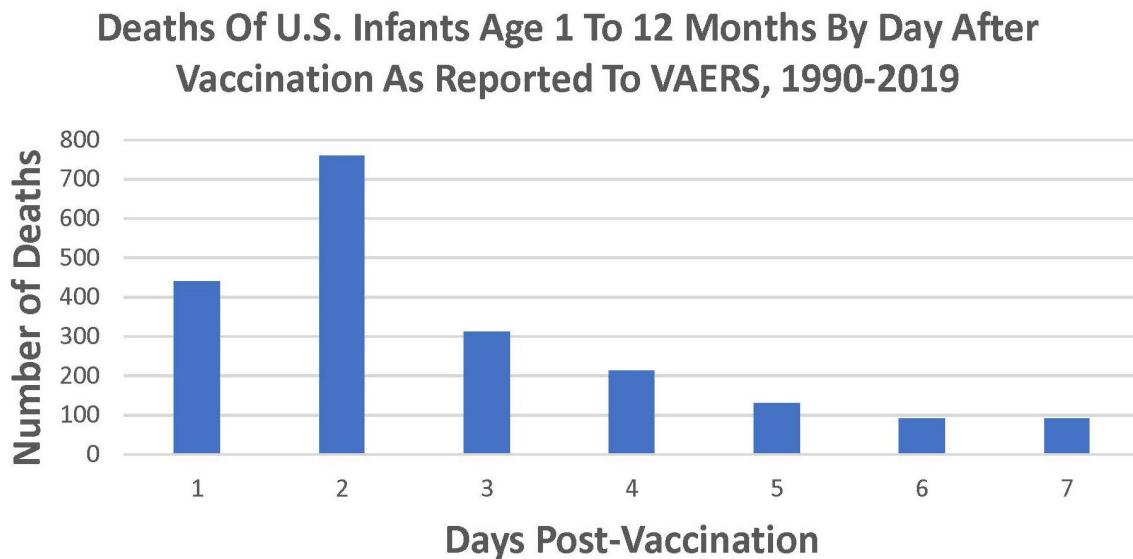
Table 2

Onset interval of infant deaths post-vaccination, USA.

| Onset interval post-vaccination | Events reported | Cumulative % of total events |
|---------------------------------|-----------------|------------------------------|
| Day of Vaccination | 440 | 16.9 % (440/2605) |
| Day 2 | 760 | 46.1 % (1200/2605) |
| Day 3 | 312 | 58.0 % (1512/2605) |
| Day 4 | 214 | 66.3 % (1726/2605) |
| Day 5 | 131 | 71.3 % (1857/2605) |
| Day 6 | 92 | 74.8 % (1949/2605) |
| Day 7 | 92 | 78.3 % (2041/2605) |
| Days 8–60 | 564 | 100 % (2605/2605) |
| Total deaths | 2605 | |

Fifty-eight percent of all infant deaths reported to VAERS occurred within 3 days post-vaccination; 78.3% occurred within 7 days post-vaccination. The remaining deaths occurred between 8- and 60-days post-vaccination, an average of 11 per day (564/53 days) as compared to 760 infant deaths that occurred on Day 2 post-vaccination—a 69-fold increase. Data obtained from VAERS 1990-2019, age < 1 year, deaths reported within 60 days from day of vaccination.

126. The above data of Miller can be graphically represented thusly:



182. The clustering of infant deaths reported to VAERS could be expected to follow vaccinations since the deaths shortly after vaccination, even if random, could be expected to be

1 more likely to be reported to VAERS than deaths occurring much later and without such an
2 obvious temporal connection to the vaccination. But, if such ascertainment and reporting bias was
3 the explanation for that clustering of infant deaths shortly after vaccination, then one would expect
4 the number of infant deaths reported to have occurred on the first post-vaccination day would be
5 similar to or greater than occurring on post-vaccination day 2. But, in fact, the number of deaths
6 reported to have occurred on day 2 were nearly twice those reported to have occurred on day 1.
7 Thus, these results do not square with an explanation that they simply represent randomly
8 distributed deaths with a reporting bias favoring deaths occurring sooner rather than later following
9 vaccination.

10 183. A 2015 report from the CDC of post-vaccine deaths reported to VEARS between
11 1997-2013 found that the median interval between vaccination and death for infants less than one
12 year of age was 2 days.⁴¹

13 184. Similar findings of an association between recent infant immunization and Sudden
14 Infant Death Syndrome (a subcategory of SUID) were reported by Walker *et al.*:⁴²

26
27 ⁴¹ Moro, P.L., Arana, J., Cano, M., Lewis, P., & Shimabukuro T.T. Deaths Reported to the
28 Vaccine Adverse Event Reporting System, United States, 1997–2013. *Clinical Infectious Diseases*, Vol
61 (6) 980-987. <https://doi.org/10.1093/cid/civ423>.

⁴² A.M. Walker *et al.*, Diphtheria-Tetanus-Pertussis Immunization and Sudden Infant Death
Syndrome. *Am. J. Pub. Health* 77, no. 8 (1987): 945-951. <https://doi.org/10.2105/AJPH.77.8.945>.

SIDS in Infants within Three Days of DTP Vaccination Compared to Thirty Days After Vaccination

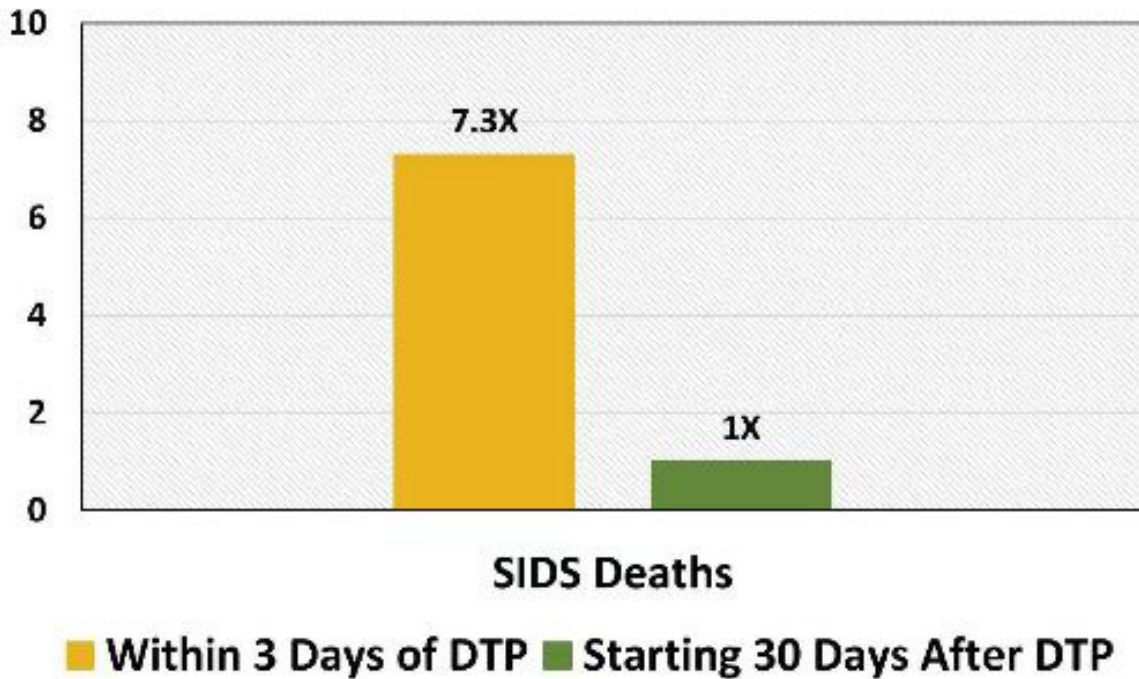


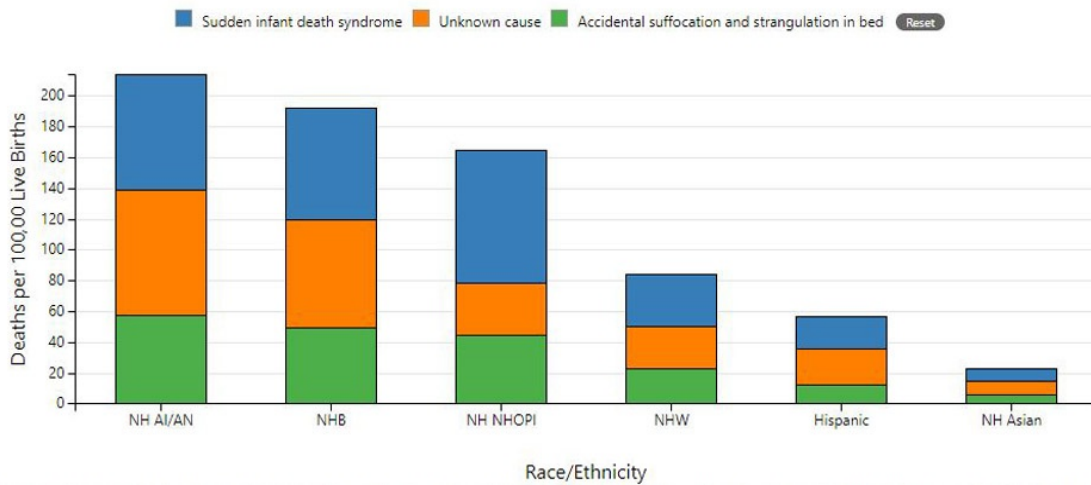
Figure 8.8—Sudden infant death syndrome (SIDS) deaths reported within three days of DTP vaccination compared to SIDS deaths reported starting thirty days after vaccination (Walker et al. 1987).

5.4.3.2.3 The Rate Of Sudden Unexpected Infant Death For African-American Infants Is Twice That Of Non-Hispanic White And Hispanic Infants

185. The rate of Sudden Unexpected Infant Death for African-American infants is twice that of Non-Hispanic White and Hispanic infants:⁴³

⁴³ Sudden Unexpected Infant Death by Race/Ethnicity, 2016–2020. CDC. <https://www.cdc.gov/sids/data.htm>.

Sudden Unexpected Infant Death by Race/Ethnicity, 2016–2020



NH AI/AN = Non-Hispanic American Indian/Alaska Native; NHB = Non-Hispanic Black; NH NHOPI = Non-Hispanic Native Hawaiian/Other Pacific Islander; NHW = Non-Hispanic White; NH Asian = Non-Hispanic Asian

5.4.3.2.4 The Studies Cited By The CDC To Show That Infant Immunizations Do Not Cause SUID Did Not Examine The Interval Between Immunization And Death

186. The CDC maintains a webpage captioned as, “Sudden Infant Death Syndrome (SIDS) and Vaccines.”⁴⁴ That page contains a paragraph heading stating that, “Vaccines have not been shown to cause sudden infant death syndrome” followed by a paragraph stating that:

Babies receive multiple vaccines when they are between 2 to 4 months old. This age range is also the peak age for sudden infant death syndrome (SIDS). The timing of the 2 month and 4 month shots and SIDS has led some people to question whether they might be related. However, studies have found that vaccines do not cause and are not linked to SIDS.⁴⁵

This statement is followed by the statement that:

Multiple research studies and safety reviews have looked at possible links between vaccines and SIDS. The evidence accumulated over many years do not show any links between childhood immunization and SIDS.
(*Id.*)

⁴⁴ Sudden Infant Death Syndrome (SIDS) and Vaccines.
<https://www.cdc.gov/vaccinesafety/concerns/sids.html>.

⁴⁵ “Sudden Infant Death Syndrome (SIDS) and Vaccines.” CDC.
<https://www.cdc.gov/vaccinesafety/concerns/sids.html>.

187. This last statement cites several studies to support it (*id.*, footnotes.), including reports by: Moro *et al.*, 2018, Moon *et al.*, 2016, Moro *et al.*, 2015, Eriksen *et al.*, 2015, Institute of Medicine Immunization Safety Review Committee, 2003, Silvers *et al.*, 2001, and Griffin *et al.*, 1988.

188. But none of these cited studies were done in the modern era in which many more immunizations are done to infants and few looked carefully at the time from immunization to the time of death.

189. With regard to the study reported by Moro *et al.* in 2018 entitled, “Safety Surveillance of Diphtheria and Tetanus Toxoids and Acellular Pertussis (DTaP) Vaccines,” this study came from the Immunization Safety Office of the Division of Healthcare Quality Promotion of the CDC.⁴⁶ It reviewed adverse events following DtaP vaccinations reported to the CDC’s Vaccine Adverse Event Reporting System (VAERS). It was published in the medical journal, *Pediatrics*, a publication of the American Academy of Pediatrics.

190. Dr. Moro and his CDC colleagues searched the CDC’s VAERS database for deaths reported following DtaP vaccinations between January 1, 1991 and December 31, 2016 and found 844 deaths so reported. They reviewed death certificates and autopsy reports that could be obtained for 725 of those deaths. Of those 725, 350 listed “sudden infant death syndrome” as the cause of death, 62% of which were male and 90% of which were less than six months of age. (*Id.*)

191. The authors admit that, “[w]ith VAERS, whether an AE (adverse event) is causally associated with vaccination generally cannot be assessed.”⁴⁷ Most importantly, they state that, “[i]n this review, we made no attempt to assess causality of the reported AEs.” Thus, this study by the CDC, cited as authority for the CDC’s statement that, “studies have found that vaccines do not cause and are not linked to SIDS,” **did not even “attempt to assess causality.”** More importantly, if the allegation of former police investigator, Jennifer, is correct that there is a general rule against linking vaccinations to medical examiner’s report on SIDS cases, then any studies based on those

⁴⁶ Moro PL, Perez-Vilar S, Lewis P, Bryant-Genevier M, Kamiya H, Cano M. Safety Surveillance of Diphtheria and Tetanus Toxoids and Acellular Pertussis (DTaP) Vaccines. *Pediatrics*. 2018;142(1). https://www.researchgate.net/publication/325552504_Safety_Surveillance_of_Diphtheria_and_Tetanus_Toxoids_and_Acellular_Pertussis_DTaP_Vaccines.

⁴⁷ *Id.*, at p. 2.

reports, such as the Moro study, would be invalid.

192. With regard to the study reported by Moon and the Task Force On Sudden Infant Death Syndrome entitled, “SIDS and Other Sleep-Related Infant Deaths: Evidence Base for 2016 Updated Recommendations for a Safe Infant Sleeping Environment,” published in 2016 in the medical journal *Pediatrics*,⁴⁸ this was a report from a task force convened by the American Academy of Pediatrics that reviewed the literature in SIDS but presented no new data of its own. The Task Force dismissed any linkage between SIDS and infant vaccines, stating that, “Four of the 6 studies showed no relationship between diphtheria-tetanus toxoid-pertussis vaccination and subsequent SIDS; the other 2 suggested a temporal relationship, but only in specific subgroup analysis.” However, all four of the first group, showing no relationship, were old, from the 1980's, before many more immunizations were added to the schedule.

193. With regard to the report by Eriksen *et al.* cited by the CDC, (1) it only looked at one vaccine, a neonatal Hepatitis B vaccine, and (2) it was funded by the CDC.

194. With regard to the 2003 Institute of Medicine review cited by the CDC entitled “Immunization Safety Review: Vaccinations and Sudden Unexpected Death in Infancy,”⁴⁹ the committee had no original data but merely reviewed literature already extant to look for evidence of causality between infant immunizations and Sudden Unexpected Infant Death. The levels of causality that the committee used were: (1) no evidence, (2) evidence is inadequate to accept or reject a causal relationship, (3) evidence favors rejection of a causal relationship, and (4) evidence favors acceptance of a causal relationship. The committee reported these conclusions:

1. The committee concludes the evidence is inadequate to accept or reject causal relationships between SIDS and the individual vaccines Hib, HepB, OPV, and IPV.
2. The committee concludes that the evidence favors rejection of a causal relationship between exposure to multiple vaccines and SIDS.
3. The committee concludes that the evidence is inadequate to accept or reject a causal

⁴⁸ Moon RY; TASK FORCE ON SUDDEN INFANT DEATH SYNDROME. SIDS and Other Sleep-Related Infant Deaths: Evidence Base for 2016 Updated Recommendations for a Safe Infant Sleeping Environment. *Pediatrics*. 2016;138(5).
https://www.cpsc.gov/s3fs-public/AAP_Sleep%20Death%20Technical%20Report%202016.pdf

⁴⁹ Institute of Medicine (US) Immunization Safety Review Committee; Stratton K, Almario DA, Wizemann TM, et al., editors. Immunization Safety Review: Vaccinations and Sudden Unexpected Death in Infancy. Washington (DC): National Academies Press (US); 2003.
<https://www.ncbi.nlm.nih.gov/books/NBK221465/?report>.

relationship between exposure to multiple vaccines and sudden unexpected death in infancy, other than SIDS.

4. The committee concludes that the evidence is inadequate to accept or reject a causal relationship between exposure to multiple vaccines and sudden unexpected death in infancy,

other than SIDS.

5. Because of the nature of the available case reports and the limited, unpublished epidemiological data, the committee concludes that the evidence is inadequate to accept or reject a causal relationship between hepatitis B vaccine and neonatal death.

195. The only causality conclusion that the committee reached was that “the evidence favors rejection of a causal relationship between exposure to multiple vaccines and SIDS.”

However, all the studies used to support that conclusion were case-control studies and none reported the temporal relationship of the vaccination to the death, specifically whether the infant death occurred within the first 48-72 hours after the vaccination. Furthermore, the study was funded by the CDC.

196. With regard to the report by Silvers *et al.* entitled, “The epidemiology of fatalities reported to the Vaccine Adverse Event Reporting System 1990-1997” cited by the CDC as evidence showing that infant vaccines don’t cause sudden unexpected infant death,⁵⁰ the authors reviewed all deaths reported to VAERS, most of whom were infants, and concluded that, “[t]hese data may support findings of past controlled studies showing that the association between infant vaccination and SIDS is coincidental and not causal. VAERS reports of death after vaccination may be stimulated by the temporal association, rather than by any causal relationship.” However, these authors did look at the temporal relationship of the vaccination to the death of the infant and reported that, **“SIDS, the largest category of deaths, occurred at a median of 3 days following immunization, with a quarter of these deaths occurring within 24 h.” This observation is at odds with their conclusion of no causal relationship.**

197. With regard to the report by Griffin *et al.*, entitled “Risk of sudden infant death syndrome after immunization with the diphtheria-tetanus-pertussis vaccine,”⁵¹ the authors

⁵⁰ Silvers *et al.*, The epidemiology of fatalities reported to the vaccine adverse event reporting system 1990-1997. *Pharmacoepidemiol Drug Saf.* 2001 Jun-Jul;10(4):279-85. https://www.researchgate.net/publication/11596287_The_epidemiology_of_fatalities_reported_to_the_Vaccine_Adverse_Event_Reporting_System_1990-1997.

⁵¹ Griffin *et al.* Risk of sudden infant death syndrome after immunization with the diphtheria-tetanus-pertussis vaccine. *N Engl J Med* . 1988 Sep 8;319(10):618-23. <https://pubmed.ncbi.nlm.nih.gov/3261837/>.

1 reviewed infant deaths following DTP immunization in four Tennessee counties during the years
2 1974-1984, well before the numbers of infant immunizations increased in later years. They did
3 look at the temporal relationship of the immunization with the ensuing death and found no
4 difference in the numbers of infants dying within the first few days, 0-3 days, 4-7 days, versus
5 those dying between 15 and 30 days post-immunization.

6 198. In summary, none of the reports relied upon by the CDC in making its statement
7 that, “Vaccines have not been shown to cause sudden infant death syndrome (SIDS)” looked at the
8 temporal relationship of the vaccination to the death of the infant during the modern era when all
9 the vaccines required under Health and Safety Code section 120335 were being given routinely to
10 infants.

11 **5.4.3.2.5 Neurotoxic Aluminum Adjuvant Overload May**
12 **Also Contribute To Sudden Unexpected Infant**
Death (SUID)

13 199. One of the reasons that older studies fail to detect adverse events may be because
14 the numbers of immunizations now required is much greater than in earlier years and more are
15 given on the same day and, thus, the adverse event may reflect a cumulative or even synergistic
16 injury.

17 200. One such mechanism of cumulative injury may be that many vaccines use additives,
18 called adjuvants, to enhance their immunogenicity. The most common adjuvant is aluminum, a
19 known neurotoxin that must be eliminated by the kidneys. Patients with little or no kidney function
20 who are on long-term dialysis cannot excrete the trace amounts of aluminum in the dialysis fluids
21 and can develop Dialysis Dementia Syndrome.

22 201. Infants may also not excrete aluminum efficiently. The FDA has warned that:

23 Term infants with normal renal function may also be at risk because of their rapidly
24 growing and immature brain and skeleton, and an immature blood-brain barrier. Until they
25 are 1 to 2 years old, infants have lower glomerular filtration rates than adults, which affects
26 their kidney function. The agency is concerned that young children and children with
27 immature renal function are at a higher risk resulting from any exposure to aluminum.⁵²

28 202. For this reason draft guidance from the FDA sets a limit of 5 micrograms per

⁵² U.S. Food and Drug Administration, Department of Health and Human Services. Rules and regulations. Fed Regist. 2003 Jun 9;68(110):34286.
<https://www.govinfo.gov/content/pkg/FR-2003-06-09/pdf/03-14140.pdf>

1 kilogram of body weight per day of aluminum allowed in the intravenous feeding solutions given to infants continuously over 24 hours each day.⁵³

203. The average full-term newborn infant weighs about 3.25 kilograms; a one-month-old infant weighs about 4.4 kilograms, a two-month-old infant weighs about 5.4 kilograms; a four-month-old about 6.7 kilograms, and six-month-old about 7.6 kilograms.

204. Thus, the FDA-allowable aluminum per day for a newborn would be about 16 micrograms; for a one-month-old about 22 micrograms, for a two-month-old about 27 micrograms, for a four-month-old about 34 micrograms, and for a six-month-old about 38 micrograms.

205. The amount of neurotoxic aluminum injected into a newborn infant at birth who receives the CDC-recommended hepatitis B vaccine is 500 micrograms (as amorphous aluminum hydroxyphosphate sulfate),⁵⁴ all at once, about 30 times the FDA-recommended daily maximum for that age.

206. The CDC then recommends a second dose of hepatitis B vaccine at 1 to 2 months of age, about 23 times the FDA daily allowable amount for that age.

207. At age two months the CDC recommends a DtaP immunization, the aluminum in which can range from 330 to 625 micrograms of elemental aluminum (as aluminum phosphate).⁵⁵

208. At the same office visit the infant will also be injected with a pneumococcal vaccine containing 125 micrograms of elemental aluminum (as aluminum phosphate).^{56,57}

209. If the infant did not receive the HepB vaccine at one month, then that would also be

⁵³ Small Volume Parenteral Drug Products and Pharmacy Bulk Packages for Parenteral Nutrition: Aluminum Content and Labeling Recommendations Guidance for Industry. U.S. Food and Drug Administration, December 2022 (draft). <https://www.federalregister.gov/documents/2022/12/07/2022-26564/small-volume-parenteral-drug-products-and-pharmacy-bulk-packages-for-parenteral-nutrition-aluminum>.

⁵⁴ FDA-approved package insert for hepatitis B vaccine, at p. 7. <https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/package-insert-recombi-vax-hb.pdf>.

⁵⁵ About Diphtheria, Tetanus, and Pertussis Vaccines. Centers for Disease Control. [https://www.cdc.gov/vaccines/vpd/dtap-tdap-td/hcp/about-vaccine.html#:~:text=Tetanus%2C Diphtheria%2C and Pertussis \(Tdap\) Vaccines&text=5 µg FIM](https://www.cdc.gov/vaccines/vpd/dtap-tdap-td/hcp/about-vaccine.html#:~:text=Tetanus%2C Diphtheria%2C and Pertussis (Tdap) Vaccines&text=5 µg FIM).

⁵⁶ PCV 15 vaccine. <https://www.fda.gov/media/150819/download>.

⁵⁷ PCV 20 vaccine. <https://www.fda.gov/media/149987/download?attachment>.

1 given at the two-month visit, for an additional 500 micrograms of aluminum.

2 210. Thus, the total amount of neurotoxic aluminum give at the two-month visit could
3 total as much as 1.250 micrograms, or 46 times the FDA daily allowable amount for that age.

4 211. At the four-month visit the CDC recommends an additional DtaP immunization
5 (330 to 625 micrograms of aluminum) and an additional pneumococcal vaccine (125 micrograms
6 of aluminum) to be injected, for a possible total of another 750 micrograms. This is about 22 times
7 the FDA recommended daily maximum for that age.

8 212. The total aluminum injected at the six-month visit includes an additional DtaP (330-
9 625 micrograms) and an additional pneumococcal vaccine for an additional 750 micrograms of
10 injected aluminum. Since the CDC recommends a second HepB immunization some time between
11 six and eighteen months, that would be another 500 micrograms of injected aluminum if given at
12 the six-month visit, bringing the total for the six-month visit up to 1,250 micrograms. This is about
13 33 times the FDA recommended daily maximum for that age.

14 213. Thus, by age six months the infant has been subjected, on five different occasions,
15 to injections of neurotoxic aluminum far in excess of the FDA daily allowable amount. Altogether,
16 the total aluminum injected during the first six months of life, when infants are at the highest risk
17 of Sudden Unexpected Infant Death, could total as much as 3,750 micrograms.

18 214. It has been estimated that, by 18 months of age, a child may have received 5,000
19 micrograms of neurotoxic aluminum via immunizations.⁵⁸

20 215. In 2008 the U.S. Agency for Toxic Substances and Disease Registry (ATSDR), a
21 unit within the U.S. Public Health Service and the U.S. Department of Health and Human Services
22 issued a report entitled, "Toxicological Profile For Aluminum."⁵⁹ This report found that, "There is
23 a limited amount of information available on the toxicity of aluminum in children. As with adults,
24 neurological and skeletal (osteomalacia) effects have been observed in children with impaired renal
25

26 ⁵⁸ Miller NZ. Aluminum in Childhood Vaccines is Unsafe. Journal of American Physicians and
27 Surgeons Volume 21 Number 4, Winter 2016.

https://www.researchgate.net/publication/311824598_Aluminum_in_Childhood_Vaccines_is_Unsafe

28 ⁵⁹ Agency for Toxic Substances and Disease Registry (ATSDR). Toxicological profile for
aluminum. Washington, D.C.: U.S. Department of Health and Human Services; 2008.

<https://www.atsdr.cdc.gov/ToxProfiles/tp22.pdf>.

function...Bishop et al. (1997) found significant decreases in the Bayley Mental Development Index in pre term infants receiving a standard intravenous feeding solution compared to preterm infants receiving an aluminum-depleted feeding solution.” *Id.*, at p. 122.

216. Since the amount of aluminum injected at these discreet times of immunization is far in excess of the amount that can be immediately excreted, the question naturally arises as to where does the excess go and does it become permanently bound there such that it cannot be later excreted?

217. In a very important study, Mold, Umar, King, and Exley looked at this question as it applies to those with autism.⁶⁰ The Abstract summary of that investigation reported that:

Autism spectrum disorder is a neurodevelopmental disorder of unknown aetiology. It is suggested to involve both genetic susceptibility and environmental factors including in the latter environmental toxins. Human exposure to the environmental toxin aluminium has been linked, if tentatively, to autism spectrum disorder. Herein we have used transversely heated graphite furnace atomic absorption spectrometry to measure, for the first time, the aluminium content of brain tissue from donors with a diagnosis of autism. We have also used an aluminium-selective fluor to identify aluminium in brain tissue using fluorescence microscopy. The aluminium content of brain tissue in autism was consistently high. The mean (standard deviation) aluminium content across all 5 individuals for each lobe were 3.82(5.42), 2.30(2.00), 2.79(4.05) and 3.82(5.17) µg/g dry wt. for the occipital, frontal, temporal and parietal lobes respectively. *These are some of the highest values for aluminium in human brain tissue yet recorded* and one has to question why, for example, the aluminium content of the occipital lobe of a 15 year old boy would be 8.74 (11.59) µg/g dry wt.? Aluminium-selective fluorescence microscopy was used to identify aluminium in brain tissue in 10 donors. While aluminium was imaged associated with neurones it appeared to be present intracellularly in microglia-like cells and other inflammatory non-neuronal cells in the meninges, vasculature, grey and white matter. The pre-eminence of intracellular aluminium associated with non-neuronal cells was a standout observation in autism brain tissue and may offer clues as to both the origin of the brain aluminium as well as a putative role in autism spectrum disorder.

218. The Discussion section of this important paper pointed out that:

The aluminium content of brain tissues from donors with a diagnosis of ASD was extremely high (Table 1). While there was significant inter-tissue, inter-lobe and inter-subject variability the mean aluminium content for each lobe across all 5 individuals was towards the higher end of all previous (historical) measurements of brain aluminium content, including iatrogenic disorders such as dialysis encephalopathy. All 4 male donors had significantly higher concentrations of brain aluminium than the single female donor. *We recorded some of the highest values for brain aluminium content ever measured in healthy or diseased tissues in these male ASD donors* including values of 17.10, 18.57 and 22.11 µg/g dry wt. What discriminates these data from other analyses of brain aluminium in other diseases is the age of the ASD donors. Why, for example would a 15 year old boy have such a high content of aluminium in their brain tissues? There are no comparative data

⁶⁰ Mold, M, Umar, D, King, A, and Exley, C: Aluminum in brain tissue in autism. Journal of Trace Elements in Medicine and Biology, Volume 46, March 2018, pp 76-82 (emphasis added). <https://www.sciencedirect.com/science/article/pii/S0946672X17308763?via%3Dihub>.

1 in the scientific literature, the closest being similarly high data for a 42 year old male with
2 familial Alzheimer's disease.

3 (*Id.*, emphasis added.)

4 219. The brains studied in this report were from five deceased individuals between the
5 ages of 15 to 50 years of age.

6 220. The significance of this study is that the investigators found much higher levels of
7 neurotoxic aluminum in the brains of five deceased autistic patients than they had ever found in
8 normal patients or even those with other neuropathologies. This strongly implicates aluminum as a
9 cause of autism.

10 221. The increased occurrence of aluminum particles in the brains of infants dying of
11 Sudden Infant Death Syndrome (SIDS) versus those dying of other causes or intrauterine death has
12 also been reported.⁶¹

13 222. Given the large excess amounts of neurotoxic aluminum injected into infants under
14 the CDC's recommendations and California's mandates and the finding of excess aluminum in the
15 brains of infants dying of Sudden Infant Death Syndrome and of autistic adults, and the absence of
16 any studies from the CDC refuting these findings, the State of California cannot possibly show that
17 its mandates for aluminum-containing vaccines are safe.

18 **5.4.3.3 Increased Rates Of Asthma, Type 1 Diabetes, Inflammatory**
19 **Bowel Disease, Rheumatoid Arthritis, and Thyroid**
20 **Inflammation Are Reported In Vaccinated Children Versus**
21 **Those Unvaccinated**

22 223. Hooker and Miller analyzed data extracted from electronic medical records of three
23 pediatric private practices that included data for 2,047 children born into those practices of which
24 633 (30.9%) received no vaccinations during the first year of life whereas 1414 (69.1%) had
25 received at least one vaccination during the first year of life, and all had reached the age of three at
26 the time of the study. Electronic medical records were examined for diagnosis codes for several
27 diagnoses, including asthma and eczema that occurred in those patients after the age of one.

28 224. As shown below, children vaccinated before one year of age and not breastfed were

⁶¹ Gatti, A.M., Ristic, M, Stanzani, S., & Lavezzi, AM. Novel chemical-physical autopsy investigation in sudden infant death and sudden intrauterine unexplained death syndromes. *Nanomedicine (London)*(2022) 17(5) 275-288.
<https://www.tandfonline.com/doi/full/10.2217/nnm-2021-0203>.

far more likely to have been diagnosed with asthma (23.8 times) by the time they were three years old as compared to those not vaccinated within the first year of life and breastfed.⁶²

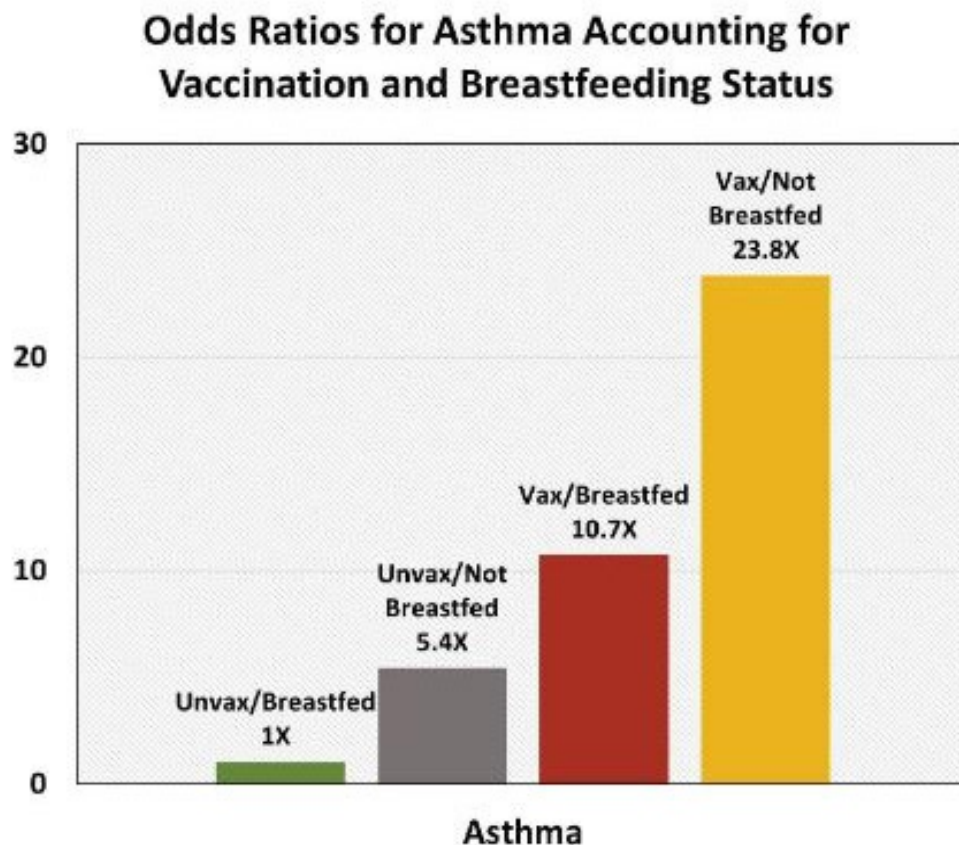


Figure 2.7—Odds ratios for a diagnosis of asthma within vaccinated and unvaccinated children accounting for breastfeeding status (Hooker and Miller, 2021).

225. In 2008 Classen compared the rate of type 1 diabetes in Danish children who received three doses of polio vaccine within the first year of life as compared to those who did not receive any polio vaccine in the first year of life and who later developed type 1 diabetes.

⁶²Kennedy, RF and Hooker, B: Vax-Unvax. Children's Health Defense (2023), citing Hooker, BS, and Miller, NZ: Analysis of health outcomes in vaccinated and unvaccinated children: Developmental delays, asthma, ear infections and gastrointestinal disorders. SAGE Open Medicine, Vol 8, 1. <https://journals.sagepub.com/doi/10.1177/2050312120925344>.

226. As shown below, the Danish children vaccinated with three doses of polio vaccine in the first year of life were 2.5 times more likely to develop type 1 diabetes as compared to those unvaccinated in the first year of life with polio vaccine:⁶³

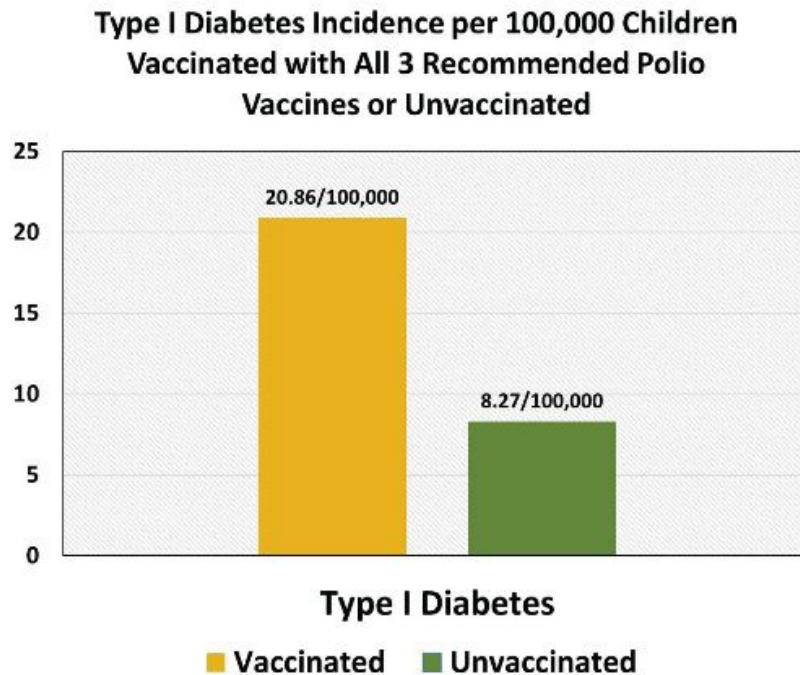


Figure 4.6—Incidence of Type 1 diabetes in children receiving all three recommended polio vaccines versus children unvaccinated for polio (Classen 2008).

227. In 2015 de Chambrun *et al.* published a meta-analysis of three studies related to vaccination and the risk of developing inflammatory bowel disease, such as Crohn's Disease or ulcerative colitis.⁶⁴ They found that children who received polio vaccines in childhood were 2.28 times more likely to later develop Crohn's Disease or 3.48 times more likely to develop ulcerative

⁶³ Kennedy, RF and Hooker, B: Vax-Unvax. Children's Health Defense (2023), p. 64, citing Classen, JB: Risk of Vaccine Induced Diabetes in Children with a Family History of Type 1 Diabetes. The Open Pediatric Medicine Journal, 2008, 2, 7-10.
<https://benthamopen.com/contents/pdf/TOPEDJ/TOPEDJ-2-7.pdf>

⁶⁴ de Chambrun GP *et al.*: Vaccination and Risk for Developing Inflammatory Bowel Disease: A Meta-Analysis of Case-Control and Cohort Studies. Clinical Gastroenterology and Hepatology 2015;13:1405–1415.
[https://www.cghjournal.org/article/S1542-3565\(15\)00638-2/pdf](https://www.cghjournal.org/article/S1542-3565(15)00638-2/pdf)

colitis, as illustrated below:⁶⁵

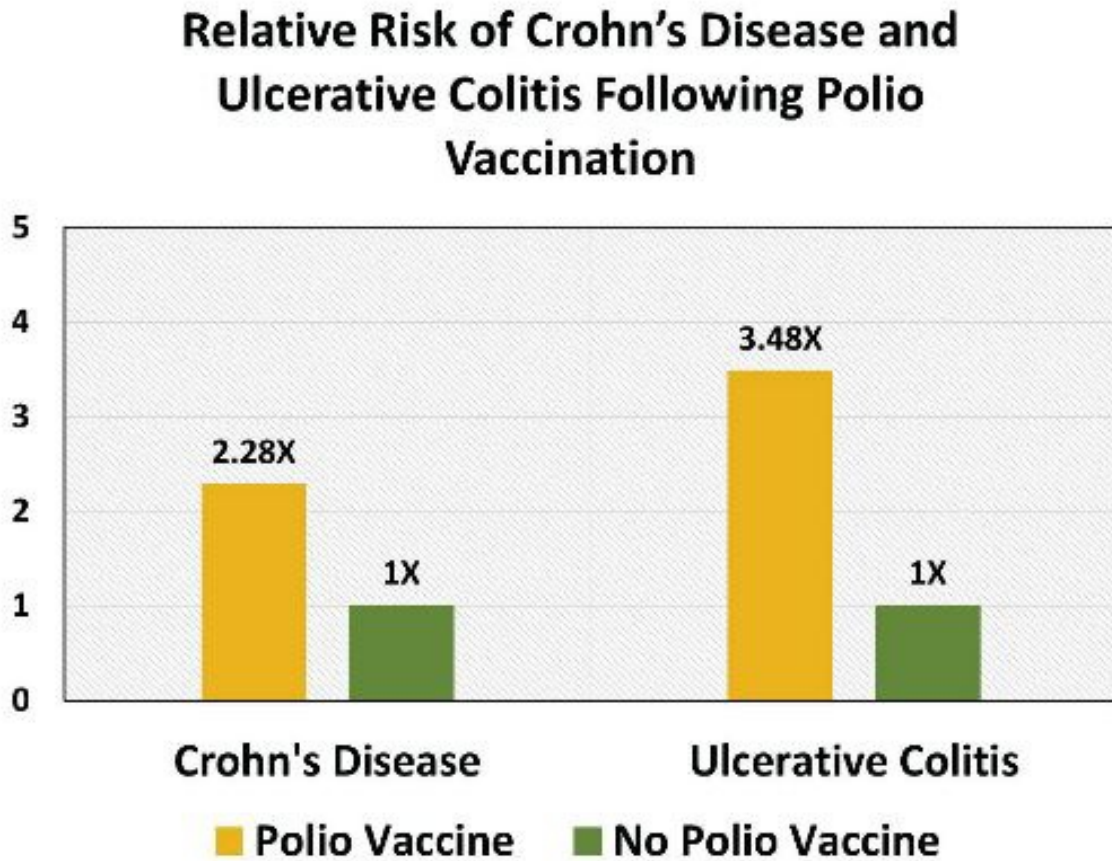


Figure 4.7—Relative risk of Crohn's disease and ulcerative colitis in children vaccinated against polio versus children unvaccinated against polio (Pineton de Chambrun et al. 2015).

228. Thus, various childhood vaccines have been reported to be associated with increased risk of developing a host of autoimmune disorders.

⁶⁵ Kennedy, RF and Hooker, B: Vax-Unvax. Children's Health Defense (2023), p. 62, citing de Chambrun GP *et al.*, *supra*.

1 **5.4.4 Childhood Immunizations Required By California Health And Safety**
2 **Code Section 120335 Are Not Clearly Necessary To Prevent Serious**
3 **Infection In Children**

4 **5.4.4.1 No Overall Net Benefit Of Measles Immunization Has Been**
5 **Shown By VU Studies**

6 229. The measles virus is the most highly contagious infectious agent for which
7 California Health and Safety Code section 120335 requires immunization.

8 230. For this reason measles is the infection most likely to break out among non-
9 immunized children. The fact that measles breaks out among populations of children not fully
10 immunized for measles and does not break out among populations of children fully immunized for
11 measles argues strongly that measles immunization is effective at preventing the spread of that
12 infection.

13 231. Given that the measles vaccine is effective, is it safe and is it worth it?

14 232. Because the FDA and CDC do not test the measles vaccines for adverse effects as
15 compared to placebo controls, there is no certainty as to the nature and frequency of those adverse
16 effects, leading many parents to decline to follow California's requirements and the CDC's
17 recommendations for measles immunization.

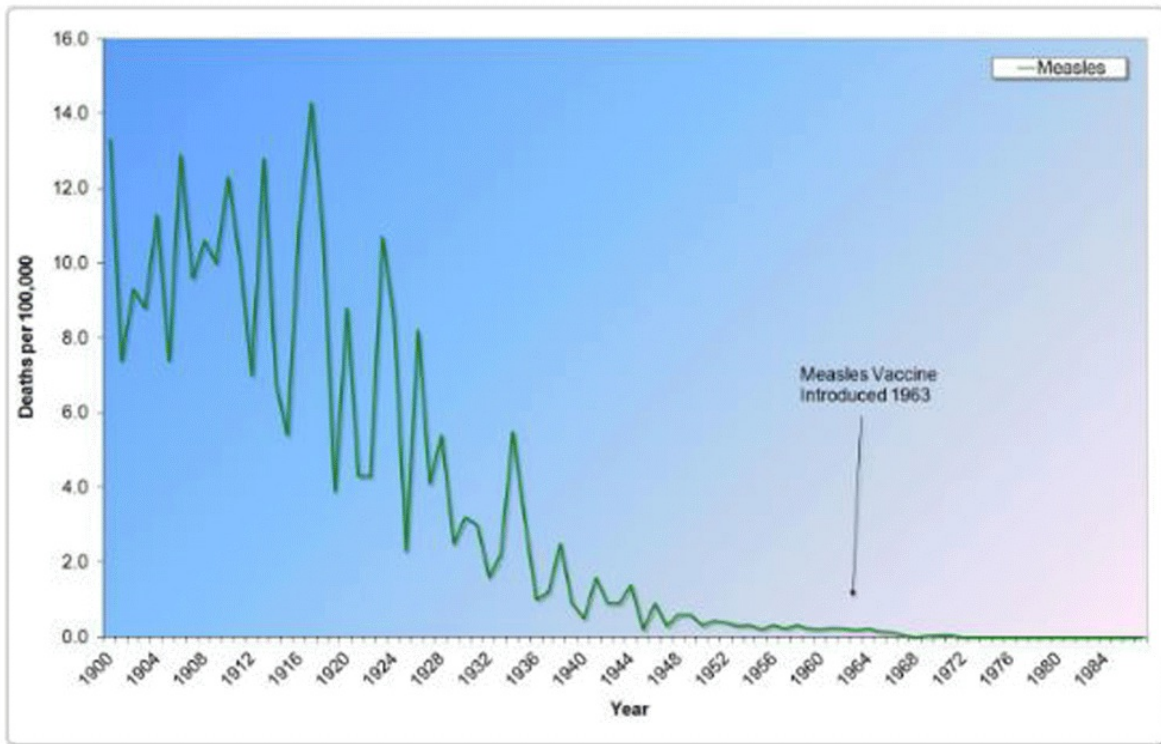
18 233. Indeed, in 1998 Wakefield *et al.* reported that some children developed autism
19 following parent-reported measles immunization but did not claim that the latter caused the
20 former.⁶⁶ This report was widely attacked and was retracted by the publisher (but not the authors)
21 twelve years later.⁶⁷ However, the finding was never actually refuted since, undeniably, most
22 children who develop autism have received a measles immunization and the rate of autism in
23 unvaccinated children is still either unknown or a matter of dispute.

24 234. However, measles cases occurring in unvaccinated children do not poses such a
25 serious health problem that measles immunization is clearly necessary because, **even before the
measles vaccine was introduced, the death rate for measles in otherwise healthy children in**

26 ⁶⁶ Wakefield AJ Murch SH Anthony A et al. Ileal-lymphoid-nodular hyperplasia, non-specific
27 colitis, and pervasive developmental disorder in children. *Lancet*. 1998; 351: 637-641.
[https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(97\)11096-0.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(97)11096-0.pdf).

28 ⁶⁷ Retraction—Ileal-lymphoid-nodular hyperplasia, non-specific colitis, and pervasive
developmental disorder in children. The Editors of The Lancet. *Lancet*. 2010:375.
[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(10\)60175-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(10)60175-4/fulltext).

the United States was nearly zero as shown below:⁶⁸

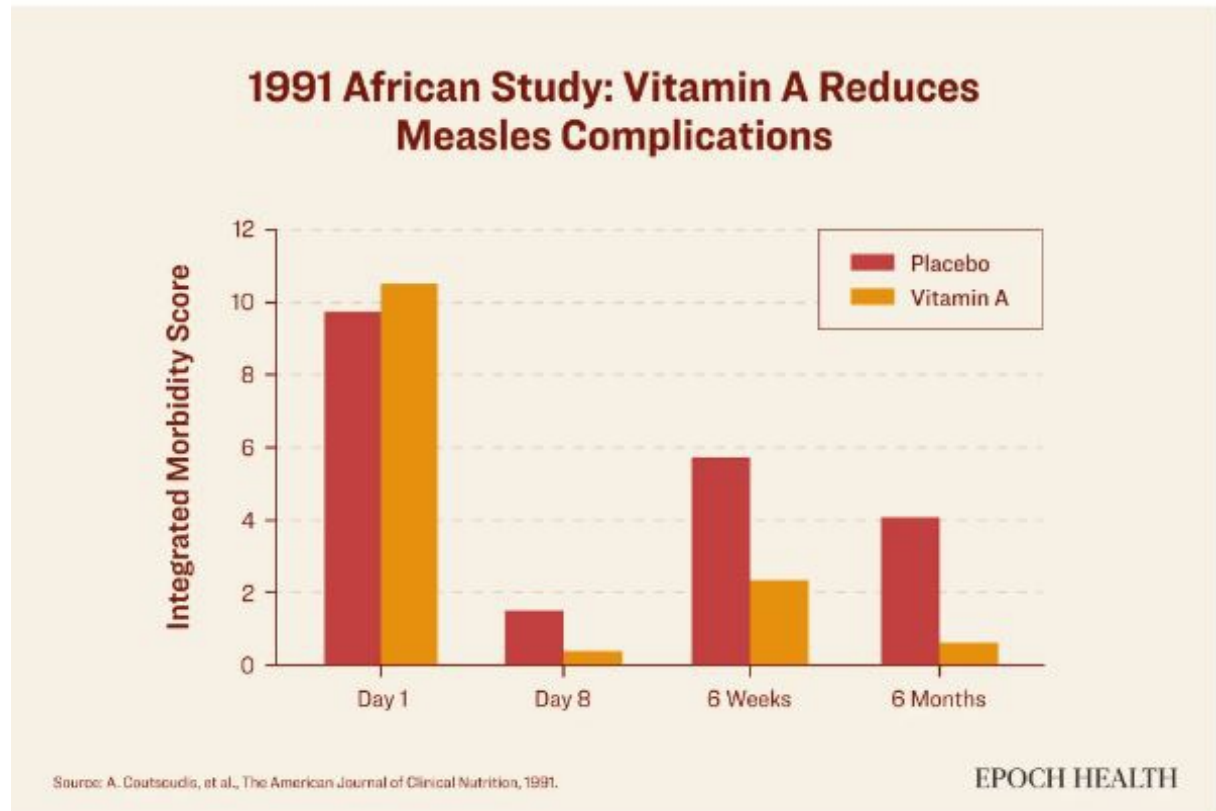


235. Furthermore, there is simple and effective treatment for the infection, ordinary vitamin A, that likely reduces that mortality rate to zero in immuno-competent children and reduces measles complications drastically⁶⁹ and as also shown below:⁷⁰

⁶⁸ Suzanne Humphries, MD and Roman Bystrianyk. Dissolving Illusions, page 201. www.dissolvingillusions.com.

⁶⁹ G.D. Hussey, M. Klein: A Randomized, Controlled Trial of Vitamin A In Children With Severe Measles. N. Engl. J. Med. Jul 19, 1990: 160-4. [doi: 10.1056/NEJM199007193230304](https://doi.org/10.1056/NEJM199007193230304).

⁷⁰ A. Coutosoudis *et al.* Vitamin A Supplementation Reduces Measles Morbidity In Young African Children: A Randomized, Placebo-Controlled, Double-Blind Trial. Am. J. Clinical Nutrition 54:5 890-895 (Nov. 1991). <https://doi.org/10.1093/ajcn/54.5.890>



236. It cannot now be shown with existing data that there is any overall net benefit of the measles vaccine for children in California.

5.4.4.2 No Overall Net Benefit Of Polio Immunization Has Been Shown By VU Studies

237. The polio vaccines developed by Salk and Sabin are the poster children for the vaccine proponents, purportedly saving millions of children and young adults from living with crippled limbs walking with cumbersome leg braces like Franklin Roosevelt or, even worse, existing immobilized in massive iron lung machines.

238. However, the reality of paralytic polio is more complicated and, to this day, still poorly understood.

239. While most of the dread infectious diseases of mankind, small pox for example, have been common and prevalent for much of recorded history and then receded with modern sanitation and improved nutrition, polio was just the opposite, mainly appearing only in advanced industrial societies and virtually unknown in primitive societies.

240. Existing data do not show any overall net benefit of polio immunization to the

1 child.

2 241. In summary, increased rates of: (1) learning disability, (2) autism, (3)
3 neurodevelopmental delay, (4) Sudden Unexpected Infant Death, (5) asthma, (6) Type 1 Diabetes,
4 (7) inflammatory bowel disease, (8) rheumatoid arthritis, (9) eczema, and (10) thyroid
5 inflammation occur in children immunized with the vaccines required by California for school
6 attendance as compared to those children not so immunized, with none of these injuries or deaths
7 eligible for compensation under the Vaccine Injury Table adopted under the National Vaccine
8 Injury Act.

9 **5.5 The California Department Of Public Health, Working With The Medical And**
10 **Osteopathic Medical Boards Of California Have Made Medical Exemptions**
11 **Very Difficult For Parents To Obtain For Their Children In Derogation Of**
12 **Their Due Process Rights Under A Strict Scrutiny Standard Of Review**

13 242. Under California Health and Safety Code Section 120370, subsection (a)(3),
14 students are exempt from the immunization requirements imposed under Health and Safety Code
15 Section 120335 if they obtain a medical exemption from a licensed physician complying with
16 Health and Safety Code Section 120372.

17 243. However, under Health and Safety Code Section 120372, stringent but vague
18 guidelines are applied to such medical exemptions. Several physicians have lost their medical
19 licenses for writing such exemptions with no prior warnings to them that they have strayed from
20 those vague guidelines.

21 244. Under Health and Safety Code Section 120372, subsection (e), the California
22 Department of Public Health works closely with the Medical and Osteopathic Medical Boards of
23 California to police these vague guidelines.

24 245. Pediatrician Dr. Douglas Hulstedt, M.D. is one of those whose medical license was
25 so revoked. His medical license was revoked by the Medical Board of California in 2023 for,
26 purportedly, practicing “below the standard of care.”

27 246. Specifically, the Medical Board ostensibly revoked Dr. Hulstedt’s medical license
28 for recommending, in 2017, to the parent of one of his pediatric patients that the child should not
receive any more immunizations due to the child’s medical and family history.

247. The Medical Board found this to be below the applicable standard of care since,

1 according to the Medical Board, doctors are only allowed to make recommendations on
2 immunizations that comport with the “guidelines” of the Centers For Disease Control (CDC).

3 248. However, under Health and Safety Code Section 120370, subsection (a)(1),
4 physicians were specifically permitted to provide medical exemptions based upon family medical
5 history in 2017.

6 249. Under California’s immunization statutes, Health and Safety Code Section 120325
7 *et seq.*, parents bear the burden of proof in exempting their children from those immunization
8 requirements, which infringe on fundamental rights of medical and educational freedom,
9 fundamental rights entitled to strict scrutiny protection.

10 **6. CALIFORNIA’S IMMUNIZATION STATUTES**

11 250. California Health and Safety Code Section 120335 requires California school
12 children to be immunized with numerous listed vaccines, known to Congress under the National
13 Childhood Vaccine Injury Act (21 U.S.C. §§ 300aa-1 *et seq.*) and as set forth above in section 4.4,
14 to cause serious injury and disability, up to and including death.

15 251. As shown below, Defendant Tomás Aragón, as Director of the California
16 Department of Public Health (CDPH), comprehensively regulates school attendance by children
17 based upon their immunization status under California’s statutes and, therefore, regulates
18 children’s fundamental right to attend school, the *Meyer-Pierce* right, based upon the child’s
19 immunization status.

20 252. Specifically, California Health and Safety Code section 131000 provides that,
21 “There is in the California Health and Human Services Agency a State Department of Public
22 Health..”

23 253. California Health and Safety Code section 131005 further provides for a California
24 State Department of Public Health (the “department” or CDPH) headed by a State Public Health
25 Officer (the “director” of the CDPH).

26 (a) There is in state government an executive officer known as the State Public Health
27 Officer, who shall be appointed by the Governor, subject to confirmation by the Senate, and
28 hold office at the pleasure of the Governor. The State Public Health Officer shall receive
the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of
Part 1 of Division 3 of Title 2 of the Government Code.

(b) The State Public Health Officer shall serve as the director of, and have control over, the
State Department of Public Health.

(c) Any statutory reference to “director,” “the Director of Health Services,” “the Director of Public Health,” or the “Director of the State Department of Public Health,” regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), is deemed to, instead, refer to the State Public Health Officer.

(d) Any statutory reference to “department” or “state department” regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), shall refer to the State Department of Public Health.

254. Defendant Tomás Aragón is California’s State Public Health Officer and the Director of the California Department of Public Health (CDPH).

255. California Health and Safety Code section 120325(a) provides that:

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1) Diphtheria, (2) Hepatitis B, (3) Haemophilus influenzae type b, (4) Measles, (5) Mumps, (6) Pertussis (whooping cough), (7) Poliomyelitis, (8) Rubella, (9) Tetanus, (10) Varicella (chickenpox), (11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

256. Furthermore, California Health and Safety Code section 120330 provides that:

The department, in consultation with the Department of Education, shall adopt and enforce all regulations necessary to carry out Chapter 1 (commencing with Section 120325, but excluding Section 120380) and to carry out Sections 120400, 120405, 120410, and 120415.

257. California Health and Safety Code section 120335 further provides that:

(a) As used in this chapter, “governing authority” means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented: (1) Diphtheria, (2) Haemophilus influenzae type b, (3) Measles, (4) Mumps, (5) Pertussis (whooping cough), (6) Poliomyelitis, (7) Rubella, (8) Tetanus, (9) Hepatitis B, (10) Varicella (chickenpox), (11) Any other disease deemed appropriate by the department, taking into consideration the

1 recommendations of the Advisory Committee on Immunization Practices of the United
2 States Department of Health and Human Services, the American Academy of Pediatrics,
3 and the American Academy of Family Physicians.

4 (c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a
5 condition by which the governing authority shall admit or advance any pupil to the 7th
6 grade level of any private or public elementary or secondary school.

7 (d) The governing authority shall not unconditionally admit or advance any pupil to the 7th
8 grade level of any private or public elementary or secondary school unless the pupil has
9 been fully immunized against pertussis, including all pertussis boosters appropriate for the
10 pupil's age.

11 (e) The department may specify the immunizing agents that may be utilized and the manner
12 in which immunizations are administered.

13 (f) This section does not apply to a pupil in a home-based private school or a pupil who is
14 enrolled in an independent study program pursuant to Article 5.5 (commencing with
15 Section 51745) of Chapter 5 of Part 28 of the Education Code and does not receive
16 classroom-based instruction.

17 258. California Health and Safety Code section 120370, subdivision (a)(3), further
18 provides that:

19 Except as provided in this subdivision, on and after July 1, 2021, the governing authority
20 shall not unconditionally admit or readmit to any of those institutions specified in this
21 subdivision, or admit or advance any pupil to 7th grade level, unless the pupil has been
22 immunized pursuant to Section 120335 or the parent or guardian files a medical exemption
23 form that complies with Section 120372.

24 259. Thus, a child who does not meet California's school immunization requirements
25 under section 120335 cannot attend classes without a medical exemption form that complies with
26 Section 130372.

27 260. California Health and Safety Code section 120372 then provides that:

28 (a) (1) By January 1, 2021, the department shall develop and make available for use by
licensed physicians and surgeons an electronic, standardized, statewide medical
exemption certification form that shall be transmitted directly to the department's
California Immunization Registry (CAIR) established pursuant to Section 120440.
Pursuant to Section 120375, the form shall be printed, signed, and submitted
directly to the school or institution at which the child will attend, submitted directly
to the governing authority of the school or institution, or submitted to that
governing authority through the CAIR where applicable. Notwithstanding Section
120370, commencing January 1, 2021, the standardized form shall be the only
documentation of a medical exemption that the governing authority may accept.

(2) At a minimum, the form shall require all of the following information:

(A) The name, California medical license number, business address, and
telephone number of the physician and surgeon who issued the medical
exemption, and of the primary care physician of the child, if different from
the physician and surgeon who issued the medical exemption.

(B) The name of the child for whom the exemption is sought, the name and
address of the child's parent or guardian, and the name and address of the
child's school or other institution.

(C) A statement certifying that the physician and surgeon has conducted a
physical examination and evaluation of the child consistent with the relevant
standard of care and complied with all applicable requirements of this

section.

(D) Whether the physician and surgeon who issued the medical exemption is the child's primary care physician. If the issuing physician and surgeon is not the child's primary care physician, the issuing physician and surgeon shall also provide an explanation as to why the issuing physician and not the primary care physician is filling out the medical exemption form.

(E) How long the physician and surgeon has been treating the child.

(F) A description of the medical basis for which the exemption for each individual immunization is sought. Each specific immunization shall be listed separately and space on the form shall be provided to allow for the inclusion of descriptive information for each immunization for which the exemption is sought.

(G) Whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. A temporary exemption shall not exceed one year. All medical exemptions shall not extend beyond the grade span, as defined in Section 120370.

(H) An authorization for the department to contact the issuing physician and surgeon for purposes of this section and for the release of records related to the medical exemption to the department, the Medical Board of California, and the Osteopathic Medical Board of California.

(I) A certification by the issuing physician and surgeon that the statements and information contained in the form are true, accurate, and complete.

(3) An issuing physician and surgeon shall not charge for either of the following:

(A) Filling out a medical exemption form pursuant to this section.

(B) A physical examination related to the renewal of a temporary medical exemption.

(b) Commencing January 1, 2021, if a parent or guardian requests a licensed physician and surgeon to submit a medical exemption for the parent's or guardian's child, the physician and surgeon shall inform the parent or guardian of the requirements of this section. If the parent or guardian consents, the physician and surgeon shall examine the child and submit a completed medical exemption certification form to the department. A medical exemption certification form may be submitted to the department at any time.

(c) By January 1, 2021, the department shall create a standardized system to monitor immunization levels in schools and institutions as specified in Sections 120375 and 120440, and to monitor patterns of unusually high exemption form submissions by a particular physician and surgeon.

(d) (1) The department, at a minimum, shall annually review immunization reports from all schools and institutions in order to identify medical exemption forms submitted to the department and under this section that will be subject to paragraph (2).

(2) A clinically trained immunization department staff member, who is either a physician and surgeon or a registered nurse, shall review all medical exemptions from any of the following:

(A) Schools or institutions subject to Section 120375 with an overall immunization rate of less than 95 percent.

(B) Physicians and surgeons who have submitted five or more medical exemptions in a calendar year beginning January 1, 2020.

(C) Schools or institutions subject to Section 120375 that do not provide reports of vaccination rates to the department.

(3) (A) The department shall identify those medical exemption forms that do not meet applicable CDC, ACIP, or AAP criteria for appropriate medical exemptions. The department may contact the primary care physician and surgeon or issuing physician and surgeon to request additional information to support the medical exemption.

(B) Notwithstanding subparagraph (A), the department, based on the medical discretion of the clinically trained immunization staff member, may accept a medical exemption that is based on other contraindications or precautions, including

consideration of family medical history, if the issuing physician and surgeon provides written documentation to support the medical exemption that is consistent with the relevant standard of care.

(C) A medical exemption that the reviewing immunization department staff member determines to be inappropriate or otherwise invalid under subparagraphs (A) and (B) shall also be reviewed by the State Public Health Officer or a physician and surgeon from the department's immunization program designated by the State Public Health Officer. Pursuant to this review, the State Public Health Officer or physician and surgeon designee may revoke the medical exemption.

(4) Medical exemptions issued prior to January 1, 2020, shall not be revoked unless the exemption was issued by a physician or surgeon that has been subject to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

(5) The department shall notify the parent or guardian, issuing physician and surgeon, the school or institution, and the local public health officer with jurisdiction over the school or institution of a denial or revocation under this subdivision.

(6) If a medical exemption is revoked pursuant to this subdivision, the child shall continue in attendance. However, within 30 calendar days of the revocation, the child shall commence the immunization schedule required for conditional admittance under Chapter 4 (commencing with Section 6000) of Division 1 of Title 17 of the California Code of Regulations in order to remain in attendance, unless an appeal is filed pursuant to Section 120372.05 within that 30-day time period, in which case the child shall continue in attendance and shall not be required to otherwise comply with immunization requirements unless and until the revocation is upheld on appeal.

(7) (A) If the department determines that a physician's and surgeon's practice is contributing to a public health risk in one or more communities, the department shall report the physician and surgeon to the Medical Board of California or the Osteopathic Medical Board of California, as appropriate. The department shall not accept a medical exemption form from the physician and surgeon until the physician and surgeon demonstrates to the department that the public health risk no longer exists, but in no event shall the physician and surgeon be barred from submitting these forms for less than two years.

(B) If there is a pending accusation against a physician and surgeon with the Medical Board of California or the Osteopathic Medical Board of California relating to immunization standards of care, the department shall not accept a medical exemption form from the physician and surgeon unless and until the accusation is resolved in favor of the physician and surgeon.

(C) If a physician and surgeon licensed with the Medical Board of California or the Osteopathic Medical Board of California is on probation for action relating to immunization standards of care, the department and governing authority shall not accept a medical exemption form from the physician and surgeon unless and until the probation has been terminated.

(8) The department shall notify the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, of any physician and surgeon who has five or more medical exemption forms in a calendar year that are revoked pursuant to this subdivision.

(9) Notwithstanding any other provision of this section, a clinically trained immunization program staff member who is a physician and surgeon or a registered nurse may review any exemption in the CAIR or other state database as necessary to protect public health.

(e) The department, the Medical Board of California, and the Osteopathic Medical Board of California shall enter into a memorandum of understanding or similar agreement to ensure compliance with the requirements of this section.

- 1 (f) In administering this section, the department and the independent expert review
2 panel created pursuant to Section 120372.05 shall comply with all applicable state
3 and federal privacy and confidentiality laws. The department may disclose
4 information submitted in the medical exemption form in accordance with Section
5 120440, and may disclose information submitted pursuant to this chapter to the
6 independent expert review panel for the purpose of evaluating appeals.
- 7 (g) The department shall establish the process and guidelines for review of medical
8 exemptions pursuant to this section. The department shall communicate the process
9 to providers and post this information on the department's website.
- 10 (h) If the department or the California Health and Human Services Agency determines
11 that contracts are required to implement or administer this section, the department
12 may award these contracts on a single-source or sole-source basis. The contracts are
13 not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
14 Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2
15 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180,
16 inclusive, of the State Administrative Manual as they relate to approval of
17 information technology projects or approval of increases in the duration or costs of
18 information technology projects.
- 19 (i) Notwithstanding the rulemaking provisions of the Administrative Procedure Act
20 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
21 the Government Code), the department may implement and administer this section
22 through provider bulletins, or similar instructions, without taking regulatory action.
- 23 (j) For purposes of administering this section, the department and the California Health
24 and Human Services Agency appeals process shall be exempt from the rulemaking
25 and administrative adjudication provisions in the Administrative Procedure Act
26 (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with
27 Section 11370), Chapter 4.5 (commencing with 11400), and Chapter 5
28 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
Government Code).

261. Nowhere does California's statutory scheme for the regulation of school attendance
by defendant Tomás Aragón and California's Department of Public Health, based upon the child's
immunization status, provide for any procedural rights or protections for the child's rights, under
federal and/or California law, to attend the school of the parents' choice, the *Meyer-Pierce* right.

1 **7. CAUSES OF ACTION**

2 **7.1 FIRST CAUSE OF ACTION: Infringement Of The Fundamental Substantive**
3 **Due Process Right Of Un-Immunized Plaintiff Children, As Exercised By**
4 **Their Parents, To Refuse Medical Treatments, U.S. Constitution, Fourteenth**
5 **Amendment, 42 U.S.C. § 1983**

6 262. Plaintiffs incorporate here by reference paragraphs 1 through 516, *supra*, as if fully
7 set forth herein.

8 263. The Substantive Due Process rights under the Fifth Amendment have been
9 incorporated to and made enforceable against the states through the Fourteenth Amendment
10 guarantee of Due Process. *NAACP v. Alabama*, 357 U.S. 449 (1958); *Gitlow v. New York*, 268 U.S.
11 652 (1925).

12 264. 42 U.S.C. § 1983 provides a cause of action against any person who, under
13 color of law of any state, subjects any person within the jurisdiction of the United States to a
14 deprivation of any rights, privileges, or immunities secured by the Constitution.

15 265. Plaintiffs challenge the constitutionality of California's mandated childhood
16 immunizations as infringements of the Plaintiffs' fundamental Substantive Due Process Right, as
17 exercised by their plaintiff parents, to refuse unwanted medical treatments that Congress has found
18 to be unavoidably unsafe and to actually cause death and serious, permanent injury as verified by
19 data from the Vaccine Injury Compensation Program (VICP).

20 266. These infringements cannot pass strict scrutiny review since California has the
21 burden of proof to show that those infringements are narrowly tailored to achieve a compelling
22 state interest; that being that California cannot show that each of the mandated immunizations are
23 absolutely necessary ("narrowly tailored") for the public health (California's "compelling state
24 interest") and do not infringe on the fundamental right of the individual to be free from the risk of
25 death or serious injury at the hands of the government.

26 267. California cannot make that stringent showing because it has no data of its own to
27 meet that burden. It relies entirely on data and recommendations from the U.S. Advisory
28 Committee on Immunization Practices (ACIP), a unit of the U.S. Centers For Disease Control.
However, the ACIP has been suspended while its membership is being reviewed for conflicts of
interest. Thus, previous recommendations of ACIP cannot be used to meet the requirements of

1 strict scrutiny.

2 268. Furthermore, California cannot produce compelling evidence that any of its
3 mandated immunizations are essential, or even desirable, for the overall health of California's
4 children, given their limited benefits and all of their serious and fatal side effects that are
5 extensively described above. These serious and fatal side effects are also fatal to California's
6 efforts to meet the requirements of strict scrutiny. Thus, these infringements should, and must, be
7 enjoined.

8 269. Indeed, enforced or coerced medical treatment of some, to their detriment but for
9 the supposed benefit of others, has never been found to be even permissible under our constitution
10 under any circumstances, no matter how narrowly tailored or how compelling were the
11 circumstances. That has always been a bright red line and must remain so.

12 **7.2 SECOND CAUSE OF ACTION: Infringement Of The Un-Immunized**
13 **Plaintiffs' Fundamental Right To Refuse Vaccination Where The Vaccine Has**
14 **Not Been Shown To Effectively Prevent Transmission Of The Infection To**
Others, Fourteenth Amendment, 42 U.S.C. § 1983

15 270. Plaintiffs incorporate here by reference paragraphs 1 through 523, *supra*, as if fully
16 set forth herein.

17 271. Under *Jacobson v. Massachusetts*, the legal justification for mandatory vaccinations
18 is as a public health measure, to prevent the transmission of infectious diseases, in that case,
19 epidemic small pox.

20 272. Other than the measles virus, the California Department of Public Health and the
21 CDC have little or no data showing that California's mandated immunizations are effective at
22 preventing person-to-person transmission of the infections that they target.

23 273. Because California cannot show that its mandated immunizations, with the
24 exception of the measles virus, prevent transmission of the infections that they target, California
25 cannot show that those mandated immunizations are narrowly tailored to achieve a compelling
26 state interest.

27 **7.3 THIRD CAUSE OF ACTION: Infringement Of The Fundamental Substantive**
28 **Due Process Right Of Un-Immunized Plaintiff Children To Attend School,**
U.S. Constitution, Fourteenth Amendment, 42 U.S.C. § 1983

274. Plaintiffs incorporate here by reference paragraphs 1 through 527, *supra*, as if fully

1 set forth herein.

2 273. Under *Meyer v. Nebraska*, all children have a fundamental, due process, right under
3 the Fourteenth Amendment to attend school, as the Court put it, to “acquire useful knowledge:”

4 The problem for our determination is whether the statute as construed and applied
5 unreasonably infringes the liberty guaranteed to the plaintiff in error by the Fourteenth
6 Amendment:

7 ‘No state * * * shall deprive any person of life, liberty or property without due
8 process of law.’

9 While this court has not attempted to define with exactness the liberty thus guaranteed, the
10 term has received much consideration and some of the included things have been definitely
11 stated. **Without doubt, it denotes not merely freedom from bodily restraint** but also the
12 right of the individual to contract, to engage in any of the common occupations of life, **to**
13 **acquire useful knowledge**, to marry, establish a home and bring up children, to worship
14 God according to the dictates of his own conscience, and generally to enjoy those privileges
15 long recognized at common law as essential to the orderly pursuit of happiness by free men.

16 *Meyer v. State of Nebraska*, 262 U.S. 390, 399 (1923)(holding that Nebraska could not
17 forbid the teaching of the German language in its public schools)(emphasis added.)

18 274. California Health and Safety Code Section 120335 categorically denies California
19 children who wish to assert their right to be free from restraint (unvaccinated) from also enjoying
20 their right to attend school and “acquire useful knowledge,” thus infringing those fundamental
21 rights.

22 275. These infringements cannot pass strict scrutiny review since California cannot show
23 that those infringements are narrowly tailored to achieve a compelling state interest; here that being
24 that California cannot show that each of the mandated immunizations are absolutely necessary
25 (“narrowly tailored”) for the public health (California’s “compelling state interest”) and do not
26 infringe on the rights of the individual to be free from the risk of death or injury at the hands of the
27 government.

28 **7.4 FOURTH CAUSE OF ACTION: Unconstitutional Conditioning Of Un-
Immunized Plaintiffs’ California Benefit Of A Free Public Education On
Condition That Plaintiffs Give Up Their Fundamental Right To Refuse
Medical Treatment, 42 U.S.C. § 1983**

276. Plaintiffs incorporate here by reference paragraphs 1 through 555, *supra*, as if fully
set forth herein.

277. The Constitution of the State of California has provided, since 1879, that:

The Legislature shall provide for a system of common schools by which a free school shall
be kept up and supported in each district at least six months in every year, after the first
year in which a school has been established.

1 278. Thus, every school-age child residing within the State of California is entitled to the
2 benefit of a free education in a common (public) school.

3 279. Since 1891, the U.S. Supreme Court has recognized the fundamental common law
4 right to refuse un-consented medical treatment. (*Union Pacific Railway Company v. Botsford*
5 (1891) 141 U.S. 250.) Such un-consented medical treatment was regarded by the common law as a
6 battery unless undertaken by order of a court.

7 280. Thus, the right to be free from unwanted medical treatment is a fundamental right
8 protected under the Substantive Due Process Clause of the Fourteenth Amendment to the
9 Constitution of the United States.

10 281. California Health and Safety Code section 120335 mandates that school age
11 children who wish to avail themselves of their right, under the California Constitution, to attend, at
12 no cost to themselves, their local public schools must then give up their fundament right, under the
13 Substantive Due Process Clause of the Fourteenth Amendment, to refuse medical treatment with
14 the state-mandated vaccines.

15 282. Thus, California Health and Safety Code section 120335 runs afoul of the rule that
16 the government “may not deny a benefit to a person on a basis that infringes his constitutionally
17 protected interests.” (*Sheetz v. Cnty. of El Dorado* (2024) 601 U.S. ___, citing the unconstitutional
18 conditions doctrine as set forth under *Perry v. Sindermann* (1972) 408 U.S. 593, 597.)

19 283. Because California Health and Safety Code section 120335 violates the
20 unconstitutional conditions doctrine by conditioning the child’s right to attend public school on the
21 child’s giving up the child’s fundamental constitutional right to refuse unwanted medical
22 treatment, it cannot stand and must be enjoined.

23 **7.5 FIFTH CAUSE OF ACTION: Failure To Afford Strict Scrutiny Procedural**
24 **Due Process To Children And Their Parents Who Wish To Exercise Their**
25 **Fundamental Substantive Due Process Right To Refuse California’s**
26 **Immunization Mandates Required For School Attendance, 42 U.S.C. § 1983**

27 284. Plaintiffs incorporate here by reference paragraphs 1 through 192, *supra*, as if fully
28 set forth herein.

28 285. California Health and Safety Code Section 120335 requires California school
children to be immunized with numerous listed vaccines, known to Congress under the National

1 Childhood Vaccine Injury Act and as set forth above in section 4.4, to cause serious injury and
2 disability, up to and including death.

3 286. Parents and minor children belonging to the plaintiff organizations and all others
4 similarly situated who do not comply with Health and Safety Code Section 120335 forfeit their
5 constitutional right to pursue education in the public or private schools in California (the *Meyer-*
6 *Pierce* right) and do so without being afforded any of their procedural due process rights, including
7 appropriate notice and hearing, as required for the deprivation of fundamental constitutional rights.

8 287. The defendants failure to provide due process is a facial violation of the civil rights
9 of those children and their parents under the Procedural Due Process Clause of the Fourteenth
10 Amendment as enforced under 42 U.S.C. § 1983.

11 **8. IRREPARABLE INJURY**

12 288. Plaintiffs incorporate here by reference paragraphs 1 through 251, *supra*, as if fully
13 set forth herein.

14 289. Members and attendees of Plaintiffs Free Now Foundation and Brave and Free
15 Santa Cruz and all others similarly situated will be severely and irreparably injured by the denial of
16 their Fourteenth Amendment Substantive Due Process rights under Health and Safety Code
17 Section 120335. They will suffer irreparable physical and emotional injuries and their economic
18 injuries will not be recoverable from California due to its sovereign immunity. Prospective
19 declaratory and injunction relief is therefore appropriate.

20 **9. PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs Free Now Foundation, Brave and Free Santa Cruz, Minor Child
22 #1, Mother and Father of Minor Child #1; Minor Child #, Mother of Minor Child #2,
23 Minor Child #3, Mother, Father, and Adult Brother of Minor Child #3, Minor Child #4,
24 Mother and Father of Minor Child #4, respectfully request and pray for judgment as
25 follows:

- 26 1. A Declaration that the right of parents to refuse California's mandated medical treatments
27 of their children, here in the form of immunizations for those children required under
28 Health and Safety Code Section 120335 and known to the Congress of the United States to
cause permanent injury and death, is a fundamental right under the Substantive Due

1 Process Clause of the Fifth Amendment as applied to the States under the Fourteenth
2 Amendment.

3 2. A Declaration that the State of California may not deny to parents the fundamental right to
4 educate their children in the schools of their choice (the *Meyer-Pierce* right), based upon
5 whether those parents chose to exercise their fundamental right to refuse mandated medical
6 treatments for their children, treatments known to the Congress of the United States to
7 cause permanent injury and death.

8 3. An injunction enjoining the State of California and its Department of Public Health from
9 enforcing, either directly or through the school districts under its jurisdiction, the
10 immunization requirements set forth in Health and Safety Code Section 120335 as to any
11 plaintiffs or to any other similarly situated persons.

12 4. An injunction enjoining the State of California and its Department of Public Health from
13 enforcing, either directly or through the school districts under its jurisdiction the
14 immunization requirements set forth in Health and Safety Code Section 120335 as to any
15 plaintiffs or to any other similarly situated persons without notice and hearing in which the
16 state must show that the required immunizations are narrowly tailored to serve a
17 compelling government interest.

18
19
20 Date: March 24, 2025

21
22

Richard B. Fox, J.D., M.D.

23 Counsel For Plaintiffs
24
25
26
27
28

APPENDIX C

NOTICE OF VOLUNTARY DISMISSAL, PURSUANT TO
F.R.C.P. 41(a)(1)(A)(i); CASE 2:24-CV-03523-DJC-SCR
FILED 04/13/2025; DKT 24

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5
6
7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**

9 Free Now Foundation, and Brave And Free
Santa Cruz, Minor Child #1, Mary Barnes,
10 Mother of Minor Child #1; Minor Child
#2, Colette Brown, Mother of Minor Child
11 #2, Minor Child #3, Mother, Father, and
Adult Brother of Minor Child #3, Minor
12 Child #4, Mother and Father of Minor
Child #4;

13 Plaintiffs

14 vs.

15 Erica Pan In Her Official Capacity As
Director Of The California Department Of
16 Public Health, and Courtney Johnson, In
Her Official Capacity As Principal,
17 Foothill Technology High School, Ventura
Unified School District; Monica Morales,
18 Director, Santa Cruz County Health
Services Agency,

19 Defendants
20
21
22

CASE NO. 2:24-cv-03523-DJC-SCR

**NOTICE OF VOLUNTARY DISMISSAL
PURSUANT TO F.R.C.P. 41(a)(1)(A)(i)**

Judge: Hon. Daniel J. Calabretta

23 TO THE COURT AND ALL PARTIES TO THIS ACTION

24 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs hereby give notice that all their claims against
25 defendant Courtney Johnson, In Her Official Capacity As Principal, Foothill Technology High School, Ventura
26 Unified School District, are voluntarily dismissed. Defendant Courtney Johnson has not served an answer or
27 motion for summary judgment in this action. Accordingly, Plaintiffs notice the voluntary dismissal of all their claims
28 against this action, without prejudice, against Defendant Courtney Johnson. See Fed. R. Civ. P. 41(a)(1)(A)(i).

1 Dated: April 13, 2025

2 /s/ Richard Fox

3 RICHARD B. FOX, J.D., M.D.
4 Attorneys for Plaintiffs

APPENDIX D

VENTURA OFFICE OF EDUCATION
CHARTER SCHOOLS IN VENTURA COUNTY



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Charter Schools in Ventura County

Authorized by the Ventura County Office of Education

Bridges Charter School

1335 Calle Bouganvilla, Thousand Oaks, CA 91360

(805) 492-3569

Authorizer: Ventura County Board of Education

<http://www.bridgescharter.org/>

[Local Control and Accountability Plan 25-26 \(LCAP\)](#)

[Bridges 2020 Operations Written Report](#)

[Learning Continuity and Attendance Plan 20-21 \(LCP\)](#)

[Bridges Charter School Petition](#)

Meadows Arts and Technology Elementary School (MATES)

2000 La Granada Drive, Thousand Oaks, CA 91362

(805) 495-7037

Authorizer: Ventura County Board of Education

<http://www.matescharter.org/>

[Local Control and Accountability Plan 25-26 \(LCAP\)](#)

[MATES 2020 Operations Written Report](#)

[Learning Continuity and Attendance Plan 20-21 \(LCP\)](#)

[MATES Charter School Petition](#)

River Oaks Academy

920 Hampshire Road Suite X, Westlake Village, CA 91360

(805) 777-7999

1751 Lombard St. Suite C, Oxnard, CA 93030

(805) 228-1100

Authorizer: Ventura County Board of Education

www.RiverOaksCharter.com

(see website for other locations)

Local Control and Accountability Plan 25-26 (LCAP)
River Oaks Academy Charter School 2020 Operations Written Report
Learning Continuity and Attendance Plan 20-21 (LCP)
River Oaks Academy Charter School Petition

Ventura Charter School of Arts and Global Education

2060 Cameron Street, Ventura, CA 93002
(805) 648-5503
Authorizer: Ventura County Board of Education
<http://www.venturacharterschool.org/>
Local Control and Accountability Plan 25-26 (LCAP)
Ventura Charter School 2020 Operations Written Report
Learning Continuity and Attendance Plan 20-21 (LCP)
Ventura Charter School Petition

Vista Real Charter High School

401 S. A Street Suite 3, Oxnard, CA 93030
(805) 486-5449
Authorizer: Ventura County Board of Education
<http://www.vrchs.org/>
(see website for other locations)
Local Control and Accountability Plan 25-26 (LCAP)
Vista Real Charter High School 2020 Operations Written Report
Learning Continuity and Attendance Plan 20-21 (LCP)
Vista Real Charter High School Petition

Other Authorized Charter Schools in Ventura County

Architecture, Construction and Engineering (ACE) Charter High School

570 Airport Way, Camarillo, CA 93010
(805) 437-1410
Authorizer: Oxnard Union High School District
<http://www.acecharterhigh.org/>
Local Control and Accountability Plan 25-26 (LCAP)
ACE 2020 Operations Written Report
ACE 2020-21 Budget Operations Written Report
Learning Continuity and Attendance Plan 20-21 (LCP)
ACE Charter High School Petition

Camarillo Academy of Progressive Education (CAPE)

777 Aileen Street, Camarillo, CA 93010

(805) 384-1415

Authorizer: Camarillo Union High School District

PROGRAMS & SERVICES

SCHOOLS

SPECIAL EDUCATION

CREDENTIALING

PROFESSIONAL LEARNING

COMPETITIONS

HUMAN RESOURCES

ABOUT

<http://www.camarillocharter.org/>

Local Control and Accountability Plan 25-26 (LCAP)

CAPE 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

CAPE Charter School Petition

Golden Valley Charter School

3585 Maple Street, Suite 101, Ventura, CA 93003

(805) 642-3435

Authorizer: Mesa Union

<https://goldenvcs.org/>

Local Control and Accountability Plan 25-26 (LCAP)

Golden Valley Charter School 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

Golden Valley Charter School Petition

Ivy Tech Charter School

6591 Collins Drive, Suite E-4, Moorpark, CA 93021

(805) 222-5188

Authorizer: Moorpark Unified School District

<http://ivytechcs.org/>

Local Control and Accountability Plan 25-26 (LCAP)

Ivy Tech 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

Ivy Tech Charter School Petition

Peak Prep Pleasant Valley

2150 Pickwick Drive, #304, Camarillo, CA 93010

(805) 222-0025

Authorizer: Pleasant Valley School District

<https://www.peak-prep.org>

Local Control and Accountability Plan 25-26 (LCAP)

Peak Prep Pleasant Valley 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

Peak Prep Pleasant Valley Charter School Petition

University Preparation Charter School at CSU at Channel Islands

1099 Bedford Drive, Camarillo, CA 93010

(805) 482-4608

Authorizer: Pleasant Valley School District

<http://universitycharterschools.csuci.edu/>

Local Control and Accountability Plan 25-26 (LCAP)

University Preparation Charter School 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

University Preparation Charter School Petition

Valley Oak Charter School

907 El Centro Street, Ojai, CA 93023

(805) 640-4421

Authorizer: Ojai Unified School District

<http://www.valleyoakcharter.org/>

Local Control and Accountability Plan 25-26 (LCAP)

Valley Oak Charter School 2020 Operations Written Report

Learning Continuity and Attendance Plan 20-21 (LCP)

Valley Oak Charter School Petition

Charter School Independent Study Resource Centers in Ventura County***Options for Youth, Oxnard**

1731 Ventura Blvd., Oxnard, CA

(805) 278-0713

<http://ofy.org>

*These schools are authorized in a county other than Ventura County, but are allowed to operate a Resource Center here based on California Education Code 47605.1 (f):

Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).

(2) Federally affiliated Youth Build programs.

(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.

(4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code .

(5) Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.



Administrative Services Center
5189 Verdugo Way • Camarillo, CA 93012
805-383-1900
[Map & Directions](#)



Conference & Educational Services Center
5100 Adolfo Road • Camarillo, CA 93012
805-383-1900
[Map & Directions](#)



Mary Samples Center / Triton Academy
5250 Adolfo Road • Camarillo, CA 93012
805-383-1900
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APPENDIX E

DISTRICT COURT ORDER CASE NO. 2:25-cv-04659-AB-JC
DENYING APPLICATION FOR A TEMPORARY
RESTRAINING ORDER, DATED JUNE 17, 2025, DKT 22

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: 2:25-cv-04659-AB-JC

Date: June 17, 2025

Title: *We The Patriots USA, Inc., et al. v. Ventura Unified School District et al.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Evelyn Chun
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Appearing

Attorney(s) Present for Defendant(s):
None Appearing

**Proceedings: [In Chambers] ORDER DENYING APPLICATION FOR A
TEMPORARY RESTRAINING ORDER [Dkt. No. 12]**

On May 22, 2025, Plaintiff We The Patriots USA, Inc., and individuals Jane Doe and her child filed a Complaint for violation of their civil rights against the Ventura Unified School District (“District”) and several of its officials. On May 24, 2025, Plaintiffs filed an Application for a Temporary Restraining Order (“TRO Application,” Dkt. Nos. 12, 13). On May 28, 2025, the District filed an opposition (Dkt. No. 17). The Application is **DENIED**.

BACKGROUND

Plaintiffs’ Complaint alleges that California laws relating to required vaccinations for school children, including Cal. Health & Safety Code § 120335, violate their First Amendment Right to the free exercise of religion because they include no exemption for parents and children whose religious beliefs prohibit them from receiving those vaccinations. *See, e.g.*, Compl. ¶¶ 21-22. Plaintiffs also allege that such laws violate their Fourteenth Amendment Due Process rights to child rearing. *See* Compl. ¶¶ 113-114.

In 2015, the District granted Jane Doe and her child a “personal beliefs exemption” from vaccination requirements based on their religious beliefs. Compl. ¶ 53. Thereafter, California repealed its personal beliefs exemption. *See id.* ¶¶ 18-23. Jane Doe alleges that in anticipation of losing the personal beliefs exemption, instead of vaccinating her child, “she began a process of obtaining homeoprophylaxis immunizations for him in 2020.” *Id.* ¶ 56. Such treatments do not violate their religious beliefs. *Id.* ¶ 57.

In December 2024, the District determined that such immunizations were inadequate, and informed Jane Doe that her child would be excluded from instruction. *Id.* ¶¶ 60-61. Jane Doe’s child has been excluded from school as of January 7, 2025. *Id.* ¶ 63. Jane Doe tried to get the District to accept the homeoprophylaxis immunizations as sufficient, but it did not accept them. *Id.* ¶ 66. Over the next weeks and months, the District tried to pressure Jane Doe into vaccinating her child, notified Jane Doe and her husband that their child was chronically absent, and threatened them with prosecution for parenting a truant and for contributing to the delinquency of a minor. *Id.* ¶¶ 67-93. Plaintiffs allege that, in addition to violating their First and Fourteenth Amendment rights, the District’s conduct harms Jane Doe’s child by denying him an education. *Id.* ¶¶ 94-97.

Plaintiffs’ TRO seeks a Court order restraining the District from enforcing Health & Safety Code § 120335 against them and others who hold religious objections to vaccinations, and from prosecuting Jane Doe for truancy for her child’s exclusion from school. Plaintiffs have not filed proofs of service of either the Complaint or the TRO Application, although it appears they informally provided these filings to the Defendants. Defendants have filed an opposition.

DISCUSSION

The Court has reviewed the Complaint, Plaintiffs’ Application for a TRO along with its supporting documents, and Defendants’ opposition and its supporting documents. The TRO is **DENIED**.

Fed. R. Civ. P. 65 (b) governs temporary restraining orders. A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). The purpose of a TRO is to preserve the status quo before a preliminary injunction hearing may be held. *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City.*, 415 U.S. 423, 439 (1974). The purpose of a preliminary injunction, in turn, is to preserve the status quo and the

rights of the parties until a final judgment on the merits can be rendered. *See U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010).

The standard for a TRO is similar to the standard for a preliminary injunction. *Frontline Med. Assocs., Inc. v. Coventry Healthcare Workers Comp., Inc.*, 620 F. Supp. 2d 1109, 1110 (C.D. Cal. 2009). To obtain a TRO or a preliminary injunction, the plaintiff must establish that “he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (citations omitted). Alternatively, where there are merely “serious questions going to the merits,” the moving party may still obtain a preliminary injunction where the balance of hardships “tips sharply” in the moving party’s favor, and where the moving party also shows a likelihood of irreparable injury and that an injunction is in the public interest. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

Also, a TRO is a kind of ex parte application, so the moving party must “establish why the accompanying proposed motion for the ultimate relief requested cannot be calendared in the usual manner. In other words . . . the moving party [must show why it] should be allowed to go to the head of the line in front of all other litigants and receive special treatment.” *Mission Power Engineering Co. v. Continental Cas. Co.*, 883 F.Supp. 488, 492 (C.D.Cal. 1995) (explaining that the applicant for ex parte relief must demonstrate urgency and that it is without fault in creating the urgency).

Here, Plaintiffs have not addressed why, let alone established that, the urgent measure of a TRO is necessary to avoid any irreparable harm. It appears that Jane Doe was notified by December 2024 that her child would not be permitted to attend school until she could prove he was fully vaccinated; presumably, the school year is now, or soon will be, over. Plaintiffs have simply not explained either why they waited this long to seek relief, or, conversely, why they have an imminent need for relief now, when school is presumably out for the summer. Without an explanation as to why Plaintiffs “should be allowed to go to the head of the line in front of all other litigants and receive special treatment,” the Court will not address the merits.

Plaintiffs’ TRO Application is therefore **DENIED**. **SO ORDERED**.

APPENDIX F

APPELLEES' VENTURA UNIFIED SCHOOL DISTRICT
AND SUPERINTENDENT ANTONIO CASTRO'S MOTION
TO DISMISS APPEAL OR, IN THE ALTERNATIVE, TO
DISMISS THEM AS APPELLEES; CASE NO. 25-5239; FILED
09/19/2025; DKT 37.1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WE THE PATRIOTS USA, INC.,
JANE DOE, on her own behalf and
on behalf of Child 1;

Plaintiffs - Appellants,

v.

VENTURA UNIFIED SCHOOL
DISTRICT; ANTONIO CASTRO, in
his official capacity only; ERIK
NASARENKO, in his official capacity
only; SARA BRUCKER, in her official
capacity only; TONY THURMOND, in
his official capacity only; ERICA PAN,
in her official capacity only,

Defendants - Appellees.

No. 25-5239

D.C. No.
2:25-cv-04659-AB-JC
Central District of California,
Los Angeles
Hon. Andre Birotte, Jr

APPELLEES' VENTURA UNIFIED SCHOOL DISTRICT AND
SUPERINTENDENT ANTONIO CASTRO'S MOTION TO DISMISS APPEAL
OR, IN THE ALTERNATIVE, TO DISMISS THEM AS APPELLEES.

REQUEST TO BE RELIEVED FROM BRIEFING OBLIGATIONS

[Hearing Not Requested-Fed R. App. P. 27]

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INTRODUCTION

Appellants challenge statewide school-entry immunization requirements enacted by the California Legislature and implemented by the California Department of Public Health (“CDPH”). The complaint itself attributes Appellants’ alleged injuries to state statutes and CDPH promulgated rules, not to any independent Ventura Unified School District (“VUSD”) policy or any individual actions by VUSD Superintendent Antonio Castro (“Castro”). Appellants simultaneously sue the relevant statewide officials (the State Superintendent of Public Instruction and CDPH’s Director) in their official capacities, and they seek system-wide injunctive relief that would (if ever granted) necessarily bind local administrators such as VUSD and Castro, even if they were no longer involved in this lawsuit.

This interlocutory appeal involves district court orders denying ex parte temporary restraining (“TRO”) order relief. Under 28 U.S.C. §1292(a)(1), the denial of a TRO is ordinarily not appealable. Exceptions apply only when a TRO is “tantamount to” a preliminary injunction (“PI”) (full adversary hearing, extended duration, or practical foreclosure of further interlocutory relief), or when the order effectively decides the merits before a PI can be heard. Neither applies here.

Below, the district court: (1) denied ex parte relief for lack of urgency, (2) refused to convert the filing to a PI, and (3) declined to reach the merits, leaving

Appellants free to file a noticed PI motion. That is the opposite of an order “tantamount to” a PI. As to the “practical effect” exception, it does not help Appellants either because the district court order did not decide merits or make future PI relief ineffectual. That is the paradigm of non-appealability under § 1292(a)(1).

Even if the Court elects not to dismiss the appeal outright, it should dismiss VUSD and Castro as Appellees because they are not proper parties and add nothing to the Court’s ability to accord relief. First, statewide officials (the State Superintendent of Public Instruction and CDPH’s Director) were sued, and the challenged school entry immunization requirements issue from state statute and CDPH regulations, not from any independent local policy. Any injunction directed to CDPH/state officials would fully redress Appellants’ claimed injuries. Because statewide relief, if warranted, would bind those administering the statewide scheme, adding local administrators is superfluous. See Fed. R. Civ. P. 65(d)(2) (injunction binds the parties, their officers, agents...and “other persons who are in active concert or participation with” them).

Second, VUSD is an arm of the State of California entitled to Eleventh Amendment immunity and is not a “person” for Section 1983 purposes.

Third, Superintendent Castro lacks the requisite *Ex parte Young* enforcement nexus and cannot supply Article III redressability. *Ex parte Young* permits

prospective relief only against an officer who has “some connection with the enforcement” of the challenged state law. General supervisory authority or a generalized duty to enforce state law is not enough. Because Castro cannot rewrite state law, create a religious exemption the Legislature and CDPH have not provided, or countermand independent county truancy decisions, an injunction against him would not redress Appellants’ asserted injuries.

Under Ninth Circuit Rule 27-11, a motion “requesting the types of relief noted below shall stay the schedule for record preparation and briefing pending the Court’s disposition of the motion,” expressly including motions for “dismissal.” 9th Cir. R. 27-11(a)(1). The schedule “shall be reset as necessary upon the Court’s disposition of the motion.” 9th Cir. R. 27-11(b). VUSD and Superintendent Castro respectfully request confirmation that they are relieved of answering brief obligations unless and until this motion is denied.

RELIEF REQUESTED

1. Dismiss the appeal for lack of appellate jurisdiction because the orders below denied TRO relief; or
2. Alternatively, dismiss VUSD and Superintendent Castro as Appellees because they are unnecessary and improper parties; and
3. Confirm that VUSD and Castro are relieved from briefing obligations pending disposition of this motion.

BACKGROUND

Appellants' suit challenges California's school entry immunization framework, which arises from state statute and CDPH regulations adopting ACIP-referenced immunization definitions. Cal. Health & Safety Code § 120335; Cal. Code Regs. tit. 17, § 6000(m). Appellants allege VUSD enforced state requirements by excluding a student and initiated School Attendance Review Board-related steps that ultimately let the Ventura County District Attorneys' Office to threaten pursuing truancy charges. Appellants seek relief that would override §120335 and compel in-person attendance for an unvaccinated student.

Procedurally, on May 22, 2025, Appellants filed their Complaint. (Exhibit A.) On May 24, 2025, Appellants filed an Application for an Emergency TRO and a Preliminary Injunction seeking to enjoin the Appellees from enforcing California Health and Safety Code § 120335 against "Plaintiffs and all similarly situated parents and children who hold sincere religious beliefs that prevent them from receiving the immunizations required by section 120335."

On June 17, 2025, the Court denied the TRO Application on the ground that "Here, Appellants have not addressed why, let alone established that, the urgent measure of a TRO is necessary to avoid any irreparable harm. It appears that Jane Doe was notified by December 2024 that her child would not be permitted to attend school until she could prove he was fully vaccinated; presumably, the school year is now, or soon will be, over. Appellants have simply not explained either

why they waited this long to seek relief, or, conversely, why they have an imminent need for relief now, when school is presumably out for the summer. Without an explanation as to why Appellants ‘should be allowed to go to the head of the line in front of all other litigants and receive special treatment,’ the Court will not address the merits.” (Exhibit B, Order at 2-3.)

On August 12, 2025, nearly two months after the Court denied their initial TRO Application, Appellants filed a Renewed Emergency Application for Temporary Restraining Order and Preliminary Injunction requesting identical relief as their initial TRO Application.

On August 15, 2025, the Court again denied the TRO Application on the ground that “First, Appellants state that they do not seek ex parte relief, and instead only want an expedited hearing. But relief sought on an expedited basis is ex parte relief, and Appellants have not complied with Local Rule 7-19.1’s ex parte notice requirements. Appellants cannot have it both ways: they can either seek an expedited ruling and comply with Local Rule 7-19.1’s notice requirements for ex parte applications, or they can file a regularly noticed motion. The Application as filed is an ex parte Application for a TRO...Fourth, Appellants essentially seek reconsideration of the Court’s order denying their initial TRO Application without addressing the standard for reconsideration. Finally, the Renewed Emergency TRO Application also fails for the lack of a genuine emergency not of the Appellants’

own making: that Appellants filed their Renewed TRO Application nearly 2 months after the Court denied their initial TRO Application, and only 1 day before the school year starts - the event that they say necessitates expedited relief - belies their characterization that their need for relief is an emergency.” (Exhibit C, at 2-3.)

On August 18, 2025, Appellants filed a notice of appeal. Two days later, they sought an injunction pending appeal from the district court, which was denied on August 29, 2025. “Granting this Application would not preserve the status quo pending appeal; it would be a wholesale reversal of the status quo. The Court has no authority to do this.” (Exhibit D, at 2.)

That same day, the district court stayed the underlying action pending the Court’s decisions in *Royce v. Pan*, No. 25-2504 (C.A.9) and *Doescher v. Aragon*, No. 25-4531 (C.A.9), both of which are pending in the Ninth Circuit. (Exhibit E, at 2-6.)

ARGUMENT

I. THIS APPEAL SHOULD BE DISMISSED FOR LACK OF JURISDICTION

A. TRO Denials Are Not Appealable Injunction Orders

This interlocutory appeal does not fall within §1292(a)(1) because the district court denied only requests for temporary, emergency relief and never adjudicated a motion for a preliminary injunction on the merits. The Ninth Circuit

has made clear that “[o]rders ruling on TRO motions are typically not appealable,” and TROs “do not count as injunctions under § 1292(a)(1)” because they provide only temporary relief and are often decided on an incomplete record. See, e.g., *Babaria v. Blinken*, 87 F.4th 963, 975-76 (9th Cir. 2023). The court also describes an “injunction” for § 1292(a)(1) purposes as an order “directed to a party, enforceable by contempt, and designed to accord or protect some or all of the substantive relief sought by a complaint in more than temporary fashion.” *Gon v. First State Ins. Co.*, 871 F.2d 863, 865 (9th Cir. 1989). Those principles foreclose jurisdiction here.

B. The District Court Denied Ex Parte TRO Relief And Never Reached PI Merits

On August 15, 2025, the court issued an in-chambers order captioned “ORDER DENYING RENEWED APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION,” but it expressly treated the filing as an *ex parte* TRO request and declined to set “an expedited preliminary injunction hearing.” The order explained that “relief sought on an expedited basis is *ex parte* relief,” found Appellants had not complied with Local Rules 7-19.1 and 65-1, noted that *ex parte* applications are not set for hearing by the parties and that a regularly noticed motion would require 28-day notice, and therefore denied the renewed TRO application. The court stated that, “because of all of the above, the Court declines on its own to set this matter for an expedited

preliminary injunction hearing.” That is a procedural disposition of an *ex parte* TRO request, not an adjudication of a preliminary injunction on the *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008) factors after a noticed, adversarial hearing. See Exhibit C, at 1-2 (“None Appearing”; treating the filing as *ex parte*), 2-3 (Local Rule defects; 28-day notice; declining to set expedited PI hearing; denying the renewed TRO application).

Nor does the earlier June 17, 2025, ruling help Appellants. In that order the court denied Appellants’ initial TRO expressly because they had not shown the urgency required for *ex parte* relief and the court “will not address the merits” absent such a showing. Again, that is a TRO ruling, not a merits ruling on a preliminary injunction. See Exhibit B at 2-3 (explaining TRO purpose and standards; finding no showing of urgency; “Appellants’ TRO Application is therefore DENIED”).

C. The Narrow “Tantamount” Exception Does Not Apply

Appellants invoke the Ninth Circuit’s limited “tantamount” pathway, but that pathway applies only when the district court conducts a “full adversary hearing” and, absent appellate review, the movant would be “effectively foreclosed from pursuing further interlocutory relief.” *Env’t Def. Fund, Inc. v. Andrus*, 625 F.2d 861, 862-63 (9th Cir. 1980) (“*Andrus*”); see also *Religious Tech. Ctr. v. Scott*, 869 F.2d 1306, 1308 (9th Cir. 1989). Here there was no hearing at all, and the

court expressly declined to set an expedited preliminary injunction hearing because Appellants elected the *ex parte* route but failed to comply with the local rules.

D. Docket Management And Timing Rulings Are Not Appealable Injunction Decisions

The district court's refusal to expedite a PI hearing is not an order "refusing" an injunction within § 1292(a)(1). An order about timing or docket management does not transform a TRO denial into an appealable PI ruling. See *Graham*, 805 F.2d at 1388 (rejecting jurisdiction where the district court had not decided the preliminary-injunction motion on the merits). And to the extent Appellants suggest serious, irreparable consequences that necessitate immediate review, they cannot meet the "practical effect" test, i.e., that the order "can be effectually challenged only by immediate appeal." *Carson v. American Brands, Inc.*, 450 U.S. 79, 84. Before they filed their notice of appeal on August 18, 2025, Appellants were free to pursue a properly noticed PI, confirming that the system afforded avenues short of converting a non-appealable TRO denial into an appealable PI denial. Written submissions without any noticed, adversarial hearing are the opposite of the *Andrus* scenario. See Exhibit C at 1-3. *Babaria* likewise confirms that the absence of a developed, adversarial record is precisely why TRO rulings are typically not appealable. *Babaria*, 87 F.4th at 975-76.

E. Neither The Later Stay Nor Dreyfus Changes The Analysis

A stay entered after denial of an *ex parte* TRO does not retroactively

transform that TRO ruling into an appealable PI decision. The Supreme Court has warned against converting routine case management and interim rulings into immediately appealable injunctions.

Section 1292(a)(1) must be construed narrowly to avoid piecemeal appeals. *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279-88 (1988), *superseded* on other grounds by the Federal Arbitration Act. Ninth Circuit decisions echo that caution, limiting interlocutory review to true injunction rulings or the rare TRO that, in function and effect, is a preliminary injunction. See *Scott*, 869 F.2d at 1308-09; *Andrus*, 625 F.2d at 862. The Ninth Circuit’s “tantamount” line requires circumstances functionally indistinguishable from a PI decision, i.e., a fully adversarial proceeding coupled with an order that effectively provides (or withholds) long-term injunctive relief. See *Scott*, 869 F.2d at 1308-09. A neutral stay pending resolution of related Ninth Circuit cases, applied across the board and without any merits ruling, does not satisfy that standard. Nor does a litigant’s dissatisfaction with the pace of proceedings. See *Babaria*, 87 F.4th at 975-76.

Appellants’ reliance on *M.R. v. Dreyfus*, 663 F.3d 1100 (9th Cir. 2011), is misplaced. There, a motions panel allowed an appeal from a TRO denial because the district court had taken the preliminary-injunction hearing “off calendar,” rendering the TRO denial “tantamount” to denying a preliminary injunction and leaving the Appellants with no timely path to interlocutory relief. *Dreyfus*, 663

F.3d at 1106-07 & n.3. That exceptional posture is the polar opposite of this case: here, the district court never set a PI hearing and declined to set one on an expedited basis because Appellants pursued *ex parte* relief without meeting the procedural and substantive prerequisites. It also invited Appellants to file a properly noticed PI motion on a fuller record, but they chose not to.

Because Appellants appealed only the denial of TRO relief, and because none of the carefully cabined exceptions applies, this Court lacks jurisdiction under § 1292(a)(1).

2. **APPELLANTS' ARGUMENTS IN SUPPORT OF JURISDICTION ARE UNCONVINCING**

The record refutes Appellants' claim (made in Appellants' Opening Brief, and likely to be repeated in opposition to this motion) that the court "denied" a preliminary injunction by word and deed," because the August 15, 2025, order expressly treated the filing as an *ex parte* TRO request, identified noncompliance with Local Rules 7-19.1 and 65-1, declined to set an expedited PI hearing, and denied only the renewed TRO, without adjudicating the *Winter* factors. See Exhibit C at 1-3.

Moreover, calling filings "TRO and PI" does not control. The court repeatedly characterized the filings as *ex parte* TRO applications, found noncompliance with Local Rules 7-19.1 and 65-1, and never reached the *Winter* factors. Appellants cannot bootstrap jurisdiction by caption.

If Appellants truly intended to press a noticed PI, they needed to move for clarification or reconsideration and ask the court to calendar it, citing the portion of their filing they claimed was a noticed PI request. See C.D. Cal. L.R. 7-18; Fed. R. Civ. P. 54(b), 59(e), 60(b). The August 15, 2025, order told them exactly what was required. If they wanted expedited relief, they had to comply with *ex parte* rules. Otherwise, they had to proceed by a regularly noticed motion. Instead, they “leapfrogged” into an interlocutory appeal from a TRO denial.

If Appellants believed the stay or any ruling impeded access to PI relief, they should have sought modification of the stay or an OSC setting a PI schedule, and if denied, pursue relief under Fed. R. App. P. 8(a)(1) after first seeking it below, rather than using emergency appellate adjacent motions to obtain “the very injunction that the court previously denied twice,” which “would be a wholesale reversal of the status quo.” (Exhibit D.)

To the extent Appellants now complain about supposed mischaracterization or procedures they never squarely challenged below, those arguments are waived. *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

3. **IF THE APPEAL IS NOT DISMISSED, VUSD AND CASTRO SHOULD BE DISMISSED AS APPELLEES**

Appellants’ alleged injury flows from the Legislature’s school-entry immunization statute and CDPH rules that local districts must follow. The complaint concedes § 120335 “compels the governing authority of all public and

private schools ... to deny admission to, and prevent the continued enrollment of, any student who has not received the required immunization.” Appellants already sued the statewide officials who implement that regime.

If Appellants were ever entitled to prospective relief, an injunction running against the statewide officials would bind “the parties’ officers, agents, servants, employees, and attorneys” as well as “other persons who are in active concert or participation with” them. Fed. R. Civ. P. 65(d)(2). That includes local administrators implementing the statewide scheme. Because the requested statewide injunction would fully redress Appellants’ asserted injuries, naming VUSD and Castro adds nothing to the Court’s ability to accord relief.

Consistent with *Kentucky v. Graham*, 473 U.S. 159, 166 (1985), official capacity claims are simply another way of pleading a claim against the government entity itself. Where the real party in interest (the State/CDPH) is already before the Court via suits against statewide officials, duplicative local official defendants are superfluous and may be dropped. See Fed. R. Civ. P. 21. And to the extent Appellants ask this Court to order VUSD specific retrospective relief (e.g., “erase all ‘F’ grades”), that request underscores why Appellees are improper parties: such orders run afoul of the Eleventh Amendment when directed at an arm of the State for retrospective relief.

A. VUSD Is an Arm of the State and Therefore Immune Under the Eleventh Amendment and Not a “Person” Under § 1983

The Ninth Circuit has “squarely held” that California school districts are arms of the State entitled to Eleventh Amendment immunity. *Belanger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 254 (9th Cir. 1992). The court reaffirmed that conclusion after California’s school-finance reforms, holding that school districts and county offices of education “remain arms of the state.” *Sato v. Orange Cnty. Dep’t of Educ.*, 861 F.3d 923, 934-36 (9th Cir. 2017).

Because VUSD is an arm of the State, it is not a “person” for § 1983 purposes. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 64, 71 & n.10 (1989). That rule forecloses both damages claims and official capacity claims seeking to impose liability on the State through its arms, subject only to *Ex parte Young*’s narrow exception for prospective relief against appropriate state officers. *Kentucky v. Graham* further confirms that official-capacity claims are, in substance, claims against the governmental entity itself. *Graham*, 473 U.S. at 165-66.

Here, Appellants expressly sue Appellee Castro “in his official capacity only” and plead that VUSD “has responsibility and authority to enforce California’s laws related to required school immunizations.” Those allegations place both Appellees within the State’s sovereign shield.

B. Ex Parte Young Does Not Permit Appellants’ Claim Against Castro

Ex parte Young allows prospective relief against a state officer only if the

officer sued has “some connection with the enforcement of the act” being challenged. *Ex parte Young*, 209 U.S. 123, 157 (1908); *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 39-45 (2021) (dismissing claims against the Texas AG and judicial defendants because they had no enforcement role under the challenged statute, while allowing claims to proceed only against licensing officials who did).

The Ninth Circuit has repeatedly emphasized that the connection must be “fairly direct,” and that a “generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit.” *Snoeck v. Brussa*, 153 F.3d 984, 986 (9th Cir. 1998) (quoting *March Fong Eu*, 979 F.2d at 704); see *Long v. Van de Kamp*, 961 F.2d 151, 152-54 (9th Cir. 1992) (California Attorney General’s general supervisory powers over criminal enforcement insufficient); *S. Pac. Transp. Co. v. Brown*, 651 F.2d 613, 614-15 (9th Cir. 1981) (Oregon AG’s power to “advise” local prosecutors not enough). And most recently, the Ninth Circuit explained that *Ex Parte Young*’s “some connection” requirement is met when the officer has a relevant, statutorily defined enforcement role that goes beyond generalized oversight, i.e., the Idaho Attorney General’s specific authority to prosecute under the challenged statute. *Matsumoto v. Labrador*, 122 F.4th 787, 799-804 (9th Cir. 2024)

Here, Appellee Castro is a local school district employee, not a state officer.

California law authorizes a school district's governing board to employ a district superintendent and to delegate certain district duties, while retaining ultimate responsibility. Cal. Educ. Code §§ 35026, 35161. The superintendent serves as the chief executive officer of the governing board. He is the board's administrator, not a state enforcer. Cal. Educ. Code § 35035.

Because *Ex parte Young* targets state officers, it does not apply to a locally employed district administrator like Appellee Castro. And even if it did, the superintendent still lacks the "fairly direct" enforcement connection that Ninth Circuit precedent requires. *March Fong Eu*, 979 F.2d at 704; *Snoeck*, 153 F.3d at 986.

The immunization statute provides that the "governing authority," which is defined as "the governing board of each school district ... or the principal or administrator of each school or institution," shall not unconditionally admit any pupil without proof of required immunizations. Cal. Health & Safety Code § 120335(a)-(b). The regulations mirror that assignment: "The governing authority shall exclude any pupil who does not meet the requirements...." Cal. Code Regs. tit. 17, § 6055. Neither text mentions, much less assigns enforcement to, the district superintendent.

That statutory structure matters. When the statute itself gives the defendant specific responsibilities that would make an injunction likely to redress the injury,

Ex parte Young may be satisfied, and when it does not, it is not. Compare *Mecinas v. Hobbs*, 30 F.4th 890, 902-04 (9th Cir. 2022) (Secretary was proper defendant where Arizona law tasked her with promulgating rules and an injunction would significantly increase the likelihood of relief) with *Long*, 961 F.2d at 154, and *Brown*, 651 F.2d at 615.

Here, Cal. Health & Safety Code § 120335 and Cal. Code Regs. tit. 17, § 6055 place the relevant duties on the board and site administrators (“principal or administrator”), not the superintendent. Enjoining the superintendent therefore would not restrain the actors whom the statute/regulations actually charge with admitting or excluding pupils. That is the very disconnect the Ninth Circuit has said defeats *Ex parte Young*. *March Fong Eu*, 979 F.2d at 704; *Snoeck*, 153 F.3d at 986.

Plaintiffs may point to the superintendent’s broad administrative role. But general responsibility to “implement board policy” or supervise district staff is exactly the sort of general supervisory power that *March Fong Eu*, *Snoeck*, *Long*, and *Brown* hold insufficient to satisfy *Ex parte Young*. See Cal. Educ. Code §§ 35035, 35161 (superintendent is the board’s CEO; the board may delegate tasks but retains ultimate responsibility).

By contrast, when the Ninth Circuit has permitted *Ex parte Young* suits, the defendant had a statutorily defined enforcement role connected to the challenged

law, e.g., licensing or prosecution authority that the injunction would directly restrain. See *Mecinas*, 30 F.4th at 902-04 (Secretary's rulemaking/ballot-production duties); *Matsumoto*, 122 F.4th at 799-804 (Idaho AG proper defendant because the statute specifically granted him authority to prosecute violations of the challenged provision).

Whole Woman's Health v. Jackson makes plain that naming a high-level official or a court actor who lacks an enforcement role cannot salvage *Ex parte Young*. *Whole Woman's Health*, 595 U.S. at 39-45. If the Texas AG and judges could not be sued because the statute gave them no enforcement role, then a local district superintendent, whom California's immunization laws do not even mention, certainly cannot be

There is also no Article III redressability as to Appellee Castro. Article III requires that relief against the particular defendant likely redress Appellants' injuries. *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 439-41 (2017). Where the relief depends on independent actors (e.g., CDPH to recognize new exemptions or the District Attorney to decline truancy prosecutions), redressability is speculative. *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41-46 (1976). Here, an injunction against Castro cannot (i) change CDPH's statewide immunization rules, (ii) create a religious exemption the Legislature and CDPH have not provided, or (iii) bar county prosecutors from taking truancy actions if

they so choose. See Exhibit A, ¶ 143 (county prosecutors), Prayer ¶¶ 2, 9 (statewide exemptions/relief). By contrast, any appropriate statewide injunction directed to CDPH or other responsible state officials would automatically bind those “in active concert” with them, including local school administrators, making Appellees VUSD and Castro superfluous. Fed. R. Civ. P. 65(d)(2).

Since Superintendent Castro lacks a real, statutorily grounded enforcement connection to the challenged state immunization requirements, and because an injunction against him would not redress Appellants’ asserted injuries, there can be no claim against him under *Ex parte Young* and Article III.

C. The Retrospective Remedies Sought By Appellants Are Barred In Any Event

Appellants ask the Court to order Appellees VUSD and Castro to “erase all ‘F’ grades” and provide remedial instruction. That is quintessential retrospective relief directed at an arm of the State, and the Eleventh Amendment forbids it. *Edelman*, 415 U.S. at 663-71 (bar on retroactive monetary/compensatory relief against the State; only prospective compliance relief is permitted).

4. THE FILING OF THIS MOTION AUTOMATICALLY STAYS APPELLEES’ BRIEFING OBLIGATIONS

Under Ninth Circuit Rule 27-11, a motion “requesting the types of relief noted below shall stay the schedule for record preparation and briefing pending the Court’s disposition of the motion,” expressly including motions for “dismissal.” 9th Cir. R. 27-11(a)(1). The schedule “shall be reset as necessary upon the Court’s

disposition of the motion.” 9th Cir. R. 27-11(b). Appellants VUSD and Castro respectfully request confirmation that they are relieved of Answering brief obligations unless and until this motion is denied.

CONCLUSION

For all of the foregoing reasons, Appellants’ motion should be denied.

Dated: September 19, 2025

LAW OFFICE OF DAVID ADIDA, APC

David Adida

By:

David Adida, Esq.
Attorney for Defendants/Appellees
VENTURA UNIFIED SCHOOL
DISTRICT and ANTONIO CASTRO

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Fed. R. App. P.

27(d)(2)(A) because it contains 5179 words, excluding the parts exempted by Fed.

R. App. P. 32(f). See Fed. R. App. P. 32(g)(1).

CERTIFICATE OF SERVICE

I certify that on September 19, 2025, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit using the CM/ECF system, which will serve all registered counsel.

APPENDIX G

NOTICE OF APPEAL; CASE NO. 2:25-CV-04659-AB-JC;
FILED 08/18/2025; DKT 54

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☐ FPD ☐ Appointed ☐ CJA ☐ Pro Per ☒ Retained

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Jane Doe, on her own behalf and on behalf of Child 1;
We The PATRIOTS USA, Inc.

PLAINTIFF(S),

v.

Ventura Unified School District, Antonio Castro, Erik
Nasarenko, Sara Brucker, Tony Thurmond, Erica Pan
DEFENDANT(S).

CASE NUMBER:

2:25-cv-04659-AB-JC

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Jane Doe, We The Patriots USA, Inc. hereby appeals to
Name of Appellant
the United States Court of Appeals for the Ninth Circuit from:

Criminal Matter

- ☐ Conviction only [F.R.Cr.P. 32(j)(1)(A)]
☐ Conviction and Sentence
☐ Sentence Only (18 U.S.C. 3742)
☐ Pursuant to F.R.Cr.P. 32(j)(2)
☐ Interlocutory Appeals
☐ Sentence imposed:

☐ Bail status:

Civil Matter

- ☒ Order (specify):
Denying renewed application for TRO/PI
☐ Judgment (specify):
☐ Other (specify):

Imposed or Filed on 8-15-2025. Entered on the docket in this action on 8-15-2025.

A copy of said judgment or order is attached hereto.

8-18-2025
Date

/s/ Cameron L. Atkinson
Signature
☐ Appellant/ProSe ☒ Counsel for Appellant ☐ Deputy Clerk

Note: The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: 2:25-cv-04659-AB-JC

Date: August 15, 2025

Title: *We The Patriots USA, Inc., et al. v. Ventura Unified School District et al.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Evelyn Chun
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Appearing

Attorney(s) Present for Defendant(s):
None Appearing

**Proceedings: [In Chambers] ORDER DENYING RENEWED APPLICATION
FOR A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION [Dkt. No. 50]**

Before the Court is Plaintiffs We The Patriots USA, Inc., Jane Doe, and her child's Renewed Emergency Application for Temporary Restraining Order and Preliminary Injunction ("Renewed TRO Appl.," Dkt. No. 50). Defendant Erica Pan, in her official capacity as the Director of the California Department of Public Health ("CDPH"), filed an Objection (Dkt. No. 51). The Renewed TRO Application is **DENIED**.

BACKGROUND

On May 22, 2025, Plaintiffs filed their Complaint.¹ *See* Compl. (Dkt. No. 1). On May 24, 2025, Plaintiffs filed an Application for an Emergency TRO and a Preliminary Injunction seeking to enjoin the Defendants from enforcing California Health and Safety Code § 120335 against "Plaintiffs and all similarly situated parents and children who hold sincere religious beliefs that prevent them from

¹ Plaintiffs filed their Complaint on May 22, 2025 but have yet to serve the CDPH.

receiving the immunizations required by § 120335.” *See* TRO Appl. (Dkt. No. 12) at 2.

On June 17, 2025, the Court denied the TRO Application on the ground that “Plaintiffs have not addressed why, let alone established that, the urgent measure of a TRO is necessary to avoid any irreparable harm.” *See* Order (Dkt. No. 22) at 3.

On August 12, 2025, nearly two months after the Court denied their initial TRO Application, Plaintiffs filed their now-pending Renewed Emergency Application for Temporary Restraining Order and Preliminary Injunction requesting identical relief as their initial TRO Application. Plaintiffs purported to set their Renewed TRO Application for hearing on September 5, 2025. As with their initial TRO Application, Plaintiffs state that they “do not seek ex parte relief, but do seek expedited relief as soon as the Court can convene the parties for a hearing on their motion for a temporary restraining order.” *Id.* at 2:8-10. Plaintiffs state that the Court should afford an expedited hearing because the “school year starts on August 13, 2025 and [Plaintiff Jane Doe’s] son will be excluded without action from the Court.” *Id.* at 3:10-13.

DISCUSSION

The Court incorporates by reference the legal standard that applies to TRO applications set forth in its Order denying Plaintiffs’ initial TRO Application.

Plaintiffs’ Renewed Emergency TRO Application fails for a litany of procedural violations set forth in the CDPH’s Objection.

First, Plaintiffs state that they do not seek ex parte relief, and instead only want an expedited hearing. But relief sought on an expedited basis is ex parte relief, and Plaintiffs have not complied with Local Rule 7-19.1’s ex parte notice requirements. Plaintiffs cannot have it both ways: they can either seek an expedited ruling and comply with Local Rule 7-19.1’s notice requirements for ex parte applications, or they can file a regularly-noticed motion. The Application as filed is an ex parte Application for a TRO.

Second, Plaintiffs failed to comply with Local Rule 65-1, which applies to TRO applications and requires the movant to file “a declaration setting forth the facts and certification required by F.R.Civ.P. 65(b)(1)(A) and (B), and a proposed order to show cause why a preliminary injunction should not issue.”

Third, insofar as Plaintiffs purport to notice their Renewed TRO Application for hearing on September 5, 2025, this is unavailing: ex parte applications are not set for hearing by the parties; alternatively, that hearing date would not allow the minimum 28-days' notice Local Rule 6-1 requires for regularly-noticed motions. *See* Standing Order (Dkt. No. 18), p. 5.

Fourth, Plaintiffs essentially seek reconsideration of the Court's order denying their initial TRO Application without addressing the standard for reconsideration.

Finally, the Renewed Emergency TRO Application also fails for the lack of a genuine emergency not of the Plaintiffs' own making: that Plaintiffs filed their Renewed TRO Application nearly 2 months after the Court denied their initial TRO Application, and only 1 day before the school year starts—the event that they say necessitates expedited relief—belies their characterization that their need for relief is an emergency.

And, because of all of the above, the Court declines on its own to set this matter for an expedited preliminary injunction hearing.

CONCLUSION

Plaintiffs' Renewed Emergency Application for a Temporary Restraining Order and Preliminary Injunction (Dkt. No. 50) is therefore **DENIED**.

SO ORDERED.

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